







REVIEW  
OF SOME  
IMPORTANT PASSAGES  
IN THE LATE  
ADMINISTRATION  
OF  
SIR G. H. BARLOW, BART.

HARDING AND WRIGHT,  
PRINTERS,  
St. J<sup>o</sup>hn's Square, London,

REVIEW  
OF SOME  
IMPORTANT PASSAGES  
IN THE LATE  
ADMINISTRATION  
OF  
SIR G. H. BARLOW, BART.  
AT MADRAS.

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BY CHARLES MARSH, ESQ.

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London:

SOLD BY BLACK, PARRY, AND CO. LEADENHALL STREET.

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1813.





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I AM aware of the difficulty which writers on East Indian politics have heretofore experienced in their appeals to the public attention. This may, in some sort, be accounted for by the uninviting nature of the details incident to the subject; details, for the most part, consisting of local transactions, uninteresting from the uniformity of their character and the lowness of their agents, and wholly unrelieved by the interposition of great counsels and striking events.

But the awful revolutions of the Western world seem to have conferred a greater import-

ance on India, as a branch of our empire. It begins to occupy a wider space in our reflections; and, if we may judge from the unusual keenness which has been felt in the controversy concerning the recent dissensions at Madras, an earnest disposition is awakened, to inquire into, and ultimately, it may be hoped, to redress the grievances of that settlement. And though the misrepresentations of that party, who are interested in defending and supporting the Governor of Madras, have been for a long time triumphant, it is a matter of no unpleasing augury, that the languor and apathy of mind, which formerly rendered the public as indisposed to investigate the dissensions of that distant part of our dominions, as if they had been no more than what Milton, speaking of the disorders of the Heptarchy, calls "the skirmishings of kites and crows," have been aroused by these portentous events, into alarm and consternation.

I shall leave to another class of politicians the problem of the utility of our Indian possessions. If Sir George Barlow's advocates are of that race of speculators, who imagine that India is a bur-

den, of which it were devoutly to be wished that Great Britain was disengumbered; they are not inconsistent in the choice of the person on whom their panegyric has been lavished. He has furnished an admirable receipt for the cure of the mischief; for the policy he has adopted has by no means a circuitous tendency to ease us of that bloated and inconvenient accession of empire.

While, however, the most considerable part of political thinkers continue to cherish the notion, that our empire in India is worth the care and trouble of preserving, it is to them that all remarks concerning the late dissensions at Madras, and all reasonings concerning their origin or their remedies, must be exclusively addressed. To them it must be a matter of most anxious deliberation, whether a case of gross misgovernment has not been made out against Sir George Barlow: and if substantially proved, whether by a relaxed or negligent animadversion on the crimes or errors of his administration, we do not incur, not the re-

mote or contingent, but the immediate and impending peril of India?

It may be easily imagined, that no ordinary pains were taken by the Madras Government to pre-occupy the public mind by partial and mutilated statements. They well knew the advantages to be derived from a priority of impression. A melancholy fatality of circumstances concurred with the dextrous alacrity of Sir George Barlow, in the diffusion of the first misconceptions which prevailed on this subject. The loss of General Macdouall,\* with whom perished the most authentic refutations of the declamatory invectives of the Madras Government, aided by the natural, and perhaps laudable disposition in the reviewing authorities, to give credit to the official communications of their Governments abroad, placed the game completely in their hands. But such is the inherent force of truth, that it has gradually surmounted the influence of power, prejudice, and falsehood. Sir

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\* In the ship, in which he had embarked for England.

George Barlow has been, ~~at~~ length beaten off from the fortuitous hold he was thus enabled to take, of the public feelings and prepossessions, as facts have successively transpired to throw a genuine light on the character of the man, and his measures. Justice, which not unfrequently comes too late for the victim, is at length beginning its animadversions on the oppressor. The degradation of honourable men, the ruin of families, the protracted torture of suspense and solicitude; these have not yet received, because they will admit of no compensation. But the reinstatement of the degraded officers, and at last the recal of the Governor himself, amounts to the severest practical condemnation of his policy, and converts, with ten-fold aggravation, the fictitious crimes which he conjured up against those unfortunate gentlemen, into the strongest charges against his own headlong precipitation and remorseless injustice.

It would be an unmanly dissembling of the dearest wish of my heart, were I to deny that one of the objects of these pages is to liberate the army of Madras (as loyal and honourable a body

of men, as are to be found within the British empire,) from the gross imputations, which it became material to Sir George Barlow's defence of himself, to fasten upon them. A vindication of their procedures might seem too bold a phrase. I shall at least be secure from verbal objection, in adopting the softened terms of palliation and excuse. They ought indeed to have patiently awaited the arbitration of the authorities in England, or have looked forward to that redress, which public opinion must at length have awarded to them. Every motive of policy or prudence required their forbearance. For the Governor of Madras had no other refuge from the public indignation which was excited by his policy, but by driving the army from complaint to crime; from discontent to rebellion. Yet, whatever the strict and unbending law of military life may require, what candid or equitable mind, will shut them out from all excuse or apology, because they did not bear with unrepining patience, the provocations and insults, which gradually urged them beyond the limits of their duty?

From the first, however, Sir George Barlow

was fearful of trusting his cause to its unaided and intrinsic merits. Besides sending a Mr. Buchan for the especial purpose of anticipating the report of General Macdouall in England, he had already commenced a private and unofficial correspondence with a person who had great influence at that time with the Court of Directors, of which he was a member, and who on the faith of insinuations for which no one was responsible, and of statements which no one was allowed to contradict, attempted to procure the condemnation of Sir George Barlow's first victims without an enquiry; and in the true spirit of the procedures, he was retained to support, to decide their fate, on the *secret* evidence alone of their accusers.

Happily this most benevolent effort failed. But the pious labour was still carried on. The refuted sophistry was renewed; the subverted statement revived. That religious sanctity, which sometimes condescends to help the homeliest job, or the coarsest intrigue, imparted a gravity and an authority to the opinions of this

gentleman, which ~~he~~ while secured to him the partizans who had been drawn into his pre-possessions, or influenced by his persuasions. The question, however, between Sir George Barlow and the army; certainly, the question of the general expediency of his measures, has at last received its adjudication. The disavowal of the policy is recorded in the disgrace of its author. The demerits of his administration have found their way to public animadversion through every difficulty that could perplex, and every impediment that could retard a fair and dispassionate enquiry.

But those difficulties and impediments in the present instance constitute the triumph of truth and of justice.

Sir George Barlow's policy is divisible into two systems; that which he adopted towards the army, and that which he set in motion against certain inhabitants of Madras, who prosecuted suits in a court of law. Did either the army, or the Carnatic creditors receive the patronage, or the countenance of the King's Government, or the

Court of Directors? For three years, they have been heard with averted ears, or answered only with insulting panegyrics of their oppressor. What new light then has beamed on those, who have so long flirted and coquettred with the injuries of Madras? The mutiny at Travancore\* is only a commentary on the doctrine taught at the Mount, in July 1809, when the seapoys received a formal discharge from the authority of their European superiors. Captain Stuart's recent† persecution is merely the revival of the sordid tyranny, which punished the corps of cadets for declining the honour of drinking tea with Lady Barlow. The system itself has been unchanged. It is the same in 1812, which in 1810 was honoured with the countenance of Lord Melville,

\* The mover and plotter of this conspiracy was the ~~very~~ Jemidar, whom Sir George Barlow employed in 1809, to disseminate that infamous lesson among the native troops!!!

† Suspended the service, for refusing, in consequence of a prior engagement, to dine with Colonel Conran.

and Mr. Gray. These are mysteries, with which I ~~presume~~ to meddle.

While, however, Sir George Barlow's recall must minister some solace to the tortured feelings of all who have suffered under his severities, or have sympathized with his victims, sound policy requires a complete elucidation, for warning, and public abhorrence, of his administration. The renovation of the Charter, a question now before Parliament, renders it indispensably necessary: and it may be hoped, that the full exposition of what has been acting and suffering at Madras, will suggest some provisions to prevent their recurrence.

In the first contemplation of the subject, one circumstance forces itself on the mind, although no notice of it is taken in the papers produced before Parliament from the India House;—I mean the universality of the complaints against Sir George Barlow. It is in vain that the suggestions of this important fact are attempted to be silenced, and the problem to be solved, by the ridiculous imputation of fac-

tion against the whole community, military and civil, of Madras. Transient discontents have disturbed the mildest and most beneficent administrations in India; but the sentiment of hatred and abhorrence was never before so widely diffused against any individual in that seat of Government. It must, therefore, be symptomatic of a peculiar venom and malignity in the disease. It is a case wholly new. Not that it would follow as a necessary conclusion, that the Madras Governor could not be right. But it would be equally as unfair and uncandid, not to allow the presumption to be on a par, at least, in favour of his opponents.

In truth, experience and reason may justify us in going much farther. The army were not rebels for the mere sake of rebellion. Considering the nature and constitution of a military body, it might almost be affirmed *a priori*, that they must have been goaded by insult and oppression, intolerable both in its kind and its degree, into a departure from the cherished maxims and habits of their lives. On the sanctity of mi-

ilitary obligation<sup>W<sub>h</sub>o</sup> dispute can be had. Every one must ~~che~~ ~~will~~ admit, that the subjection of the army to the state is among the holding principles<sup>•</sup> of the political union. Obedience, passive, unresisting obedience, is the first lesson of a soldier. It is not that he abandons his rights; but that, by his submitting to the conditions, in exchange for the advantages of martial life, his individual rights, as a member of the civil community, are bound up in the corporate rights of the body to which he belongs. These are doctrines, to which he does not merely assent as indisputable truths, but principles which he feels, as the presiding influences of his life.

A slight knowledge of human nature, therefore, will demonstrate, that a military rebellion must, for the most part, be urged by an impulse adequate to overpower the strength of those feelings, which the habits of discipline have infused into the moral constitution of an army. The impelling must be superior to the resisting powers. Whatever presumptions

against Governments\* ~~which~~ be derived from discontents merely popular, those presumptions operate with redoubled force in military cases. Besides, the mutiny of which we are speaking, was not a mere rising of the lowest ranks. It was a mutiny of officers, bred up to the science of arms as a liberal profession; educated by choice and adoption to its duties; habitually taught to respect themselves, and to measure their claims to the respect of others, by their religious observance of those duties, and deriving the pride and elevation of soul, which is their most dignified distinction, from that subordination and discipline by which they are severed from the rest of the community. As far, therefore, as mere presumptions are to be resorted to, it is no illegitimate reasoning to infer, that the Madras Governor, by a bitter and persecuting policy, overpowered the strong ~~host~~ of motives,

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\* Pour la populace (says a profound politician) ce n'est jamais par envie d'attaquer qu'elle se soulève, mais par impatience de souffrir. *Mem. de Sully, tom. 1.*

and opinions, and ~~its~~ its, which, in military minds, is naturally ~~inclined~~ inclined on the side of order, subjection, and discipline.

Bending beneath the weight of these presumptions, some of Sir George Barlow's advocates have attempted to counteract them by an insinuation, that the army in India is mutinous by the very law of its existence, and that a sort of predisposition to rebel is moulded into its original fabric. No facts however have been produced in confirmation of this theory. At present it is sufficient to remark, that the tendency to revolt, thus pointed out as the constitutional infirmity of the Indian Army, has been emphatically negatived by the language of the Governor-General in his order of the 25th of September, 1809; in which, with no common solemnity, he declares, "That up to the hour of the mutiny, the Madras Officers were distinguished by the practice of every military virtue."

Although Sir George Barlow's language in various orders breathes the same testimony to

their antecedent loyalty, ~~the~~ passage just quoted contains a most unanswerable concession of the fact. Lord Minto publishes his sentiments on the origin of the tumults, as the result of an elaborate and anxious inquiry. "I have not "neglected," he says, "to look back once "more to the origin of these troubles, and I "am concerned to repeat the sentiments I "have already delivered on that branch of the "subject."

The constitutional insubordination of the army was a discovery reserved for these gentlemen. Had it glanced across the observation of the Governor-General, from whose judgments concerning the character of the Indian Army no appeal can be had, it is obvious how conspicuous a figure it would have made in the verbose publication of the 25th of September. The pre-disposition to revolt, and the relaxation of discipline, on which these persons have dilated, would have suggested itself to his Lordship, not indeed as an excuse for the army, but as a topic of vindication for Sir George Barlow. It

would have furnished him with materials for a rhetorical picture of the difficulties which beset the Madras Governor on his accession to the seat of authority, and of the factions he had to encounter from an undisciplined rabble of men, dignified, indeed, by the name of an army, but adverse, in the very elements of its constitution, to all order and subordination.

Had this position been tolerably susceptible of proof, or rather, not too absurd to be ventured, it would have established an important point in exculpation of the Madras Governor. It would have shewn, beyond all doubt, that the disaffection was neither coeval with his administration, nor the result of his oppressions. How then are we to account for the omission of this topic by Lord Minto, and even Sir George Barlow himself? To his Lordship is ~~not~~ to be imputed too rigid a parsimony of words, nor the habit of passing over subjects, capable of such expanded apology for the person, over whose character and counsels, from the first stage of the tumult to the last, he

has thrown the shield of his ~~spirit~~ and authority.

It is, therefore, to be taken as a fundamental fact, that the revolt was coeval with the government of Sir George Barlow. The principal question is, whether it arose from the peculiar character of his policy; from oppression, or insult, or indignity to the army; or any of those acts of misgovernment, which, while they do not soften the guilt of the rebellion, must on all sides be admitted to bring down criminal responsibility on the man who provoked it. Nor is this grave and paramount question to be mingled with any considerations of the promptitude and vigour, with which he is supposed to have extinguished the insurrection which his injustice excited. No two things can be more distinct. There can be no moral proportion between the policy which raised the disturbance, and the merit by which it was subdued. No after measures, with whatever wisdom they were conceived, or with whatever vigour they

were executed, ~~an~~ an excuse the error, or expiate the crime of having urged on a state of affairs, which perhaps will never be restored to their former settlement and composure. An ulterior question still remains, and it is not a light and insignificant one—Whether the subsequent policy has been well calculated to heal the disunion, and tranquillize the distraction of those perturbed and unnatural events?

It is necessary, for a right understanding of the beginnings of these transactions, to distinguish the collateral facts from the originating causes. These have been artfully confounded with the abolition of the Tent Contract, and the misunderstanding betwixt General Macdouall and the Government. Whatever emoluments the rescinding of that contract cut off from the officers commanding corps, it was submitted to with the most cheerful acquiescence. No paper or instrument of any description, is to be found amongst the documents recorded against the army, in which the slightest dissatisfaction is

breathed against the retrenchment.\* The memorials and addresses, which, in the hour of their infatuation, were circulated amongst them, are wholly silent on a subject which has been dwelt on with so much emphasis, as the predisposing cause of the revolt.

The measure of reduction had originated with Lord William Bentinck's government. It excited no clamour against that upright and beloved nobleman ; nor did it diminish the regrets with which his ill-omened departure was bewailed. The whole is a base fiction, for the purpose of imparting a character of mercenary meanness to the mutiny, which, wholly indefensible as it is, had no other origin than the arbitrary and relentless punishments, new to military usage, and contrary to military law, of many of the most meritorious and beloved officers of the service.

In truth, the abolition of the Tent Contract was no pecuniary deprivation to the commandant of corps. Yet the Government of Fort St. George condescends, in their letter to the

Court of Directors of the 29th of January, 1809, to countenance the insinuation, by classing "the adoption of the improved system" amongst the chief causes of the commotion. In subservience to the same calumny, the author of "the accurate narrative of the origin and progress of the dissents at Madras," who is well known to be the hired and mercenary missionary of Sir George Barlow in England, places the reduction of the pecuniary advantages of those officers in the front of the existing causes to which he attributes the mutiny.

The truth is widely remote from these statements. The Tent Contract is indeed mentioned incidentally in the memorial of the army which General Macdouall forwarded to the Government. Its abolition, however, is not introduced as a grievance on the grounds of pecuniary loss; but "the base and unfounded insinuations against the officers commanding corps," in reference to the reasons on which it had been recommended by Lieutenant-Colonel Munro to

be abolished, are repelled by statements tending to shew, that the officers had, in their discharge of the trust, fulfilled their stipulated engagements with fidelity and honour. Not a word, not a murmur as to the loss of emolument. In the bitterness of wounded feeling, they lament that they had lost the confidence of the Government, which, by abolishing the contract, had apparently sanctioned Munro's insinuations. The renewal of the contract is not once hinted at; nor does it form any part of the prayer of the memorial\*, which petitions only for a participation in the Bazar fund, and an equality of allowance with the Bengal service.

It cannot, indeed, be denied, that the release of Munro from arrest, and the systematic insults which the Commander in Chief received from Sir George Barlow, had excited a general dis-

\* Papers printed for the House of Commons (Madras Army,) No. 1, p. 25.

gust. But it was a sentiment not confined to the Company's service. The king's officers were the loudest and most indignant in the expression of it. Neither the violence, however, of the Government in depriving General Macdouall of his military jurisdiction, nor the feelings which were excited by the intemperance of Barlow in the whole of his quarrel with Macdouall, influenced the army to the slightest departure from their duty. Had Sir George Barlow sat down satisfied with those measures, there would not have been the most short-lived interruption of the public tranquillity. They were generally lamented, and generally blamed. But there is not a single document, nor any evidence in the whole mass of records, which shews that the army, in this stage of the transactions, had in any other manner deviated from the most passive subjection, than in those comments which are involuntarily forced upon the mind, and spontaneously escape from the lips, when extreme and violent measures are adopted.

The punishment of Colonel Capper and Major Boles for an act of military duty, followed up by that of no less than seven officers, high in rank, and high in the estimation of the army, arbitrarily, without trial or inquiry; this policy, embittered by the manner of its being carried into effect, in which little was exhibited of the dignified vigour of Government, and nothing omitted of that cold and unfeeling insolence, which makes the execution of power at once mean and intolerable; in these transactions may be found the real exciting causes of the guilt and violence which ensued.

It is of the highest moment that this discrimination should be observed. History would be unfruitful of instruction, if events of confined and transient operation, of earlier date, indeed, in the march of occurrences, but in themselves inadequate to the production of the effect, were mixed and confounded with the immediate causes of the commotion. The rule of philosophizing, which prohibits a resort to more causes than are strictly necessary to explain the pheno-

menon, is of sovereign efficacy in moral and political, as in physical reasonings.

Still, however, a review of the antecedent circumstances is not foreign from the subject. It will illustrate the genius and character of Sir George Barlow's policy. It will exhibit the same vexatious, self-willed measures; the same predilection for odious exertions of power; the same marked abhorrence of that conciliation, by which mankind are won whilst they are governed, and without which no man is fitted for rule or authority: in short, the same violence and arrogance, which afterwards drove a whole army to despair and mutiny. It is due also to the gallant officer, whose memory has been the natural prey of the cowardly defamers, who, had he been living, would have been abashed by a glance from his eye, and skulked away in shame and terror from his presence, that no opportunity should be omitted of refuting the misstatements concerning his conduct, which have been diffused with great zeal and industry.

It may be necessary to inform those who are ignorant of the course of military business at Madras, that it is principally conducted by the Commander in Chief and a military board composed of officers of trust and experience in the service. At the instance of the military board, the Government in 1802 entered into contracts with the commandants of native corps, who, in consideration of what was deemed a fair allowance, undertook to keep their camp equipage in a state of preparation for field service. This recommendation was suggested by the inconvenience and inefficiency of the former system. The accounts of the commandants were subject to the audit and superintendance of the military board.

In 1807, Lieutenant Colonel Munro, in a report to Sir John Cradock, then Commander in Chief, entered into some reasonings upon the Tent Contract, and recommended its abolition. This report was laid before the Government.

Lieutenant-Colonel Munro was the Quarter-Master-General. In this report, he claimed the details of the camp equipage, as falling within

the duties of his own department; and urged the rescinding of the contract on the grounds of its non-fulfilment by the officers commanding corps. These officers amounted to about forty in number, and this objection is expressed in the following terms.

“ Six years’ experience of the practical effects  
“ of the existing system of camp equipage  
“ equipment of the army, has afforded means  
“ of forming a judgment relative to its advan-  
“ tages and efficiency, which were not possessed  
“ by the persons who proposed its introduction,  
“ and *an attentive examination of its operations*  
“ during that period, has suggested the follow-  
“ ing observations regarding it.”

“ By granting the same allowances in peace  
“ and war for the equipment of native corps,  
“ while the expences incident to the change are  
“ unavoidably much greater in war than in peace,  
“ it places the interest and duty of officers com-  
“ manding corps in direct opposition to each  
“ other; it makes it their interest that their  
“ corps should not be in a state of efficiency fit  
“ for field service, and therefore furnishes strong

“ inducements to neglect their most important duties.”

Other objections are urged in the report, and the whole is finished by a strong suggestion to remove the contract to the Quarter-Master-General’s, that is, to his, Colonel Munro’s, department.

Much will turn on the interpretation fairly warranted by these expressions. It was deemed by the officers commanding corps, a libellous attack on their integrity and honour. It was considered as a direct imputation of a breach of the contract; of a fraud on their employers; of a sacrifice of their duty to their interests. Is this interpretation correct? Whence is it derived? From the plain meaning and obvious spirit of the language used by Munro.

Let it be observed, that these were not arguments in the shape of *a priori* objections to a proposed measure then under deliberation. They were arguments derived from an experience of six years. Experience is built upon facts. They are not theoretical objections urged to the probable tendency of the plan; for pro-

bable tendencies cannot be matters of experience. They are objections specifically derived from the actual abuse of the contract, demonstrated by a six years' experience. By whom, then, was the contract abused? Who are guilty of the breach of trust? The officers commanding corps. A limited number of gentlemen, each of whom is as much designated by this accusation of the small body to which he belonged, as if he had been charged with the offence in his individual name and character.

Can accusation speak a plainer language? Its fair construction may admit of elucidation from a case not altogether imaginary. Suppose that a member of the military board, anxious for the reformation of abuses, was to present a report to the Fort St. George Government concerning the execution of the camp equipment, as it is now conducted in Colonel Munro's department. Suppose that, building his objections on the inconveniences sustained in the preparations for the war in Travancore, (which was so gallantly conducted and nobly finished by the honourable Colonel Sentleger, one of Sir George Barlow's

victims,) and in the last expensive movements of the force under Colonel Close, in pursuit of Meer Khan. Suppose that, as a matter of experience, the reporter had urged that the Quarter-Master-General's interest was at variance with his duties; that it was his duty to have procured the best bullocks; that, by means of the circular letters of the Government to the collectors, he had every facility afforded him of effecting that object, but that his interest pulled him in another direction; that, in fact, the tents were made up by contract, through the intervention of a Dubash, by whom the profits of the contract were shared; that in consequence of this arrangement, the common grass bullocks only were obtained, which were unfit for the service; and that the tents, which were made of the worst materials, had never been pitched and examined till they were sent to the field. With what colour of consistency or reason could it be said, that no insinuation was cast on Colonel Munro, by a report, of which the professed basis was an experience of his mode of conducting that business for three years? Would not Munro

either have demanded a court-martial on his own conduct, or have brought the author of the report to trial for false and infamous insinuations; or have again thrown himself on the protection of Sir George Barlow, who has introduced the abridged process of punishing without the intervention of those troublesome tribunals? One of these courses he must have pursued; or have virtually acknowledged, by his silence, the justice of the accusation.

Is there no analogy between the cases? I will defy the most ingenious sophist to shew the distinction, unless he succeeds at the same time in shewing, that, to Colonel Munro it is legally permitted to throw out the most opprobrious slanders on forty venerable, and distinguished officers, but that Colonel Munro has himself an especial sacredness of character, and a peculiar immunity from reproach.

That Colonel Munro represented in this report the most serious abuses of their trust to have been committed by the commandants, is equally clear from another passage in the same paper.<sup>4</sup> By the regulations of the Company's

service, the commanding officers are directed to provide for the cover of their men in all situations. "But there are reasons for believing that this regulation, as it regards the provision of cover for the men at fixed stations in time of peace, are not very exactly observed."

The insinuation was, therefore, two-fold. Within his experience of six years, the officers commanding corps had not only violated the contract, of which they had received the consideration from the Company, but had been guilty of a breach of the orders of the service, and of the grossest inhumanity, by inattention to the health of their men.

Either these facts were susceptible of proof, or they ought not to have been insinuated. If they had been the suggestions of actual experience, as Munro avows, that experience could only have been derived from specific abuses which had fallen under his observation. He therefore could not, without a dereliction of duty approximating to actual connivance, shrink from the prosecution of the offenders. It is not of that class of offences in which there is one un-

divided and simultaneous criminality, perpetrated by one act and in one confederation. His experience must have been drawn from the specific frauds of individuals, for which each of them was severally responsible.

The task would doubtless have been invidious. But they who aspire to the praise of an austere public virtue, must not start and be turned aside from their course by the ungracious aspect of their duties. On the other hand, the squeamish delicacy which restrained Munro from pointing out the individual delinquents, is but a paltry excuse for visiting on a number of respectable gentlemen, the offences of a few in one indiscriminate censure, which, making them all guilty, does not permit one of them to prove that he is innocent.

Military usage, which is military law, abounds in precedents of officers, who have fallen under suspicion, soliciting and obtaining courts-martial, or courts of inquiry, to clear their character and redeem their honour. This is seldom denied. Had the officers whom Munro's report accuses of systematic fraud, applied for such an investi-

gation, it would surely have been within the sound discretion of the Commander in Chief to have granted them a court-martial, or a court of inquiry.

Or had Colonel Munro instituted a prosecution against any of the persons whom he accuses, and substantiated the facts on which he grounded his experience, by the sentence of a court-martial they must have been dismissed from the service. Had he failed in the prosecution, and lightly or precipitately brought so grave an accusation without proof to sustain it, it would have generated a *prima facie* presumption that he was influenced by malicious motives, and he himself would have been liable to prosecution. There are officers now suffering the sentences of courts-martial for similar offences. If, then, it be a military offence, strictly within military cognizance, to prefer groundless charges before a court where the accused has the privilege of shewing them to be false, with what colour of reason or consistency can it be said, that it is neither "unbecoming the character of an officer and gentleman," to

cast upon a number of military men, of high rank and reputation, aspersions which they had no means of denying or refuting?

It is no wonder, therefore, that by the objects of Munro's insinuation a strong sentiment of wounded pride and insulted honour was felt. It was an imputation of fraud, and fraud of the meanest kind; and surely the utmost skill of inventive obloquy could have selected none more keen to sting and lacerate the heart of a soldier, "*to wake the nerve where agony is born.*" They felt that it was false. They inferred, and the inference was obvious, that Munro knew it to be false; and that under colour of an official report, he had imputed to them the most serious crimes, for the purpose of drawing to his own department the provision of the tent equipment. They preferred, therefore, charges against Colonel Munro. After much deliberation, the Commander in Chief placed him under arrest on the 20th of January, 1809. Against this arrest he appealed to the Commander in Chief; but although by that appeal he distinctly submitted to the jurisdiction, and recognized the authority of General

Macdouall, on its being rejected, *he made a* direct appeal to Sir George Barlow, who had, for some time, been upon uneasy terms with the General. The whole drama had been already got up. It was a part of its machinery, that the Judge-Advocate-General, who had just written an opinion in favour of Munro, should be consulted. The Judge-Advocate recommended the case to be laid before the Advocate-General. Of their joint opinions, the release of Colonel Munro, involving the annihilation of the Commander in Chief's military authority, was, in a very short time, proclaimed as the result.

It had been, however, fully resolved, in what the reviewer is pleased to call the Cabinet of Fort St. George, that Munro should be released. The opinions were taken, for the sake of upholding, by the semblance of legal advice, the pre-determined measures of the Government. It was well known that the persons filling the situations of Advocate-General and the Judge-Advocate-General, would chant their strains in unison with the voice of authority; and,

like the oracle of old, \* *phillippize* in their zeal for Sir George Barlow. The gratitude of the Government to the Judge-Advocate-General was instantaneous. The situation of agent of military stores, with a salary of nearly £2000. per annum, was bestowed upon him; an office wholly incompatible with that of Judge-Advocate. It will easily be imagined that some obnoxious person was removed, to make way for this meritorious individual.

Let us, however, turn with disgust from such subjects. The interposition of the Governor with the military authority of the Commander in Chief, if defensible at all, must rest on some of the following grounds.—Either the Commander in Chief was bound by the opinions of the Judge-Advocate and the Company's law officer, and therefore had no discretion as to the prosecution or release of Munro; or the peculiar circumstances of Munro's case constituted

\* The celebrated oracle of Apollo at Delphi, was said φιλιππίζειν, i. e. to accomodate its responses to the gold and interests of Philip.

an exception to the right of the Commander in Chief in ordinary cases; or the interposition of Sir George Barlow was warranted by law. I will venture the whole argument on all or either of these issues.

The Judge-Advocate-General is not the legal adviser of the Commander in Chief. His office is the conduct of courts-martial, where he sits, invested with a duty of a mixed, and somewhat of an incongruous character; ministerial, as the prosecutor in the name of the crown, and judicial, as the adviser of the court. He has nothing to do with military charges before they are tried, except as to their technical frame. The discretion of bringing them to issue before a court-martial, resides in the Commander in Chief. It is a question which has hitherto been considered as lying within his exclusive cognizance. Responsibility and discretion are convertible propositions. If the opinions of the Judge-Advocate were to be allowed the force of an obligation on the Commander in Chief, the discretion would virtually be transferred from the Commander in Chief, who cannot exercise

it, but under a grave responsibility, to a person who is subject to no responsibility at all. The office of Judge-Advocate is, for the most part, exercised by military men; and it cannot be presumed, that minds undisciplined by habit or education to legal controversies, are well qualified to pronounce on such questions.

Nor do the reasonings of Lieutenant-Colonel Leith, in his official writings, authorize the presumption. Let any man who requires a confirmation of this remark, turn to the opinion which justified the release of Munro, and to that which afterwards, with equal promptitude, justified the reprobated and condemned measures of the suspension of Boles and Capper. He will in vain search for the legal knowledge, or legal acuteness, or closeness of reasoning, or clearness of illustration, or, above all, for the ingenuous honesty, which give weight and influence to opinions, and erect a well-gifted understanding into a control and authority over others. Even allowing something to his industry of research, (a concession of little value, when the facility of heaping together cases is considered,)

if he has no other claim to the assent of our judgments than an accumulation of authorities which do not apply, or of analogies which do not illustrate, it is obvious that, in seal affairs, his opinions must afford but a faint and precarious assistance. The mind of such a man is a lumber-room of ill-assorted learning, dark within itself, and unillumined by a single ray of that practical common sense that sheds a light over the path of others.

But the fact itself will best shew how far the Commander in Chief was controlled by his advice. No man is to be bound by advice for which he does not call. The charges against Munro were referred to the Judge-Advocate upon a mere question of form. As it is a part of that officer's duty to take care that the crime is properly laid, and the charges sufficiently specific in form, the Commander in Chief remarking that the charges against Munro were too general, sent them to the Judge-Advocate with his doubts on that point. But the expediency of the prosecution was not submitted to Lieutenant-Colonel Leith, much less the right

of bringing him to trial; for the Commander in Chief had already taken on himself the exercise of that discretion. And this is admitted by Leith himself in the first sentence of his opinion, who states, that they were laid before him "by orders of his Excellency the Commander in Chief, for his opinion, whether the charges could be legally brought forward in their present form." As an excuse for his entering into the other parts of the question, he clumsily observes, "that in the construction of law, the legal form is intimately connected with the substance."\*

Is not this a procedure that bears the complexion of a fraud? The reference to Leith was the mere question of the technicality of the charge. He seizes, with an avidity which unanswerably shews his privity in the predeterminations of the Governor, the opportunity of entering into the merits of the case, and into all the topics of which Munro might avail himself in

his defence : and these topics he tortures into a preliminary bar to the procedure.

But in what school has he learned his law ? Every man tolerably tinctured with legal studies must know, that an anticipation of what may be adduced in reply to a criminal charge, is no objection to the charge itself. If the charge is sufficiently clear and precise to fix the accused party with a military offence, the prosecutor takes on himself the hazard of sustaining it. The official character of Munro's report, and the circumstance of its being written in obedience to orders, were facts, of which, if capable of proof, he would have been entitled to the benefit. These were questions for the Court. By giving validity, however, to the preliminary objections, the province, both of the Commander in Chief, as to the discretion of bringing an offender to a court-martial, and of the Court in appreciating the strength of evidence, is virtually usurped by the Judge-Advocate. The very essence of the crime is the intention. If Munro wrote the paper *bona fide* in the course of his official duty, the essential ingredient of the offence, the evil

intention, is wanting. But if, under the pretext of an official report, he threw out unjust and infamous aspersions on the officers, in order to draw the profits of the tent equipage to his own office, the offence would have been established. Whose province is it to draw from facts the conclusions of a guilty or an innocent intention? The Judge-Advocate-General's, according to the doctrine of Sir George Barlow's advocates. That of the Court-martial, according to justice, reason, and common sense.

Such was the opinion, echoed, indeed, by that of the Company's Advocate, which General Macdouall rejected, and, if these reasonings are correct, wisely rejected. Let us now see, whether there was any particularity in the proceeding against Colonel Munro, which, admitting for the present a legal competence in the Madras Government to interpose, rendered the exercise of that interposition expedient or necessary.

It will be no easy matter to assign a clear and definite justification for the conduct of Sir George Barlow in this procedure. The attempt

to convert the aspersions contained in Munro's report into an act of the Madras Government, and to protect that officer under the general irresponsibility of the Government itself, has much more of artifice in it, than of reason or justice. It is, in truth, a recognition of the slander, and a sanction of the calumnious statements complained of. For had those statements been true, the local Government stands convicted of a gross dereliction of its duty, in not instituting inquiries into a corrupt breach of trust committed by their officers; if unfounded, they become a party in the injustice and guilt of the slander. No middle path, that was just or honourable, lay open before them.

What was the conduct which they were called on to protect? It formed no necessary part of the report, considered as a mere œconomical plan, to traduce the officers, unless the reporter had been prepared to establish his accusations. But the plan itself was obviously not framed for the honest purpose of œconomizing the public money. The commandants received a *fixed* allowance for keeping their camp-equipage in

perpetual preparation for field service. Colonel Munro seeks to withdraw it to his own department, without any limits as to expence; from the audit and control of the military board to his own office, where it would not be subject either to audit or control.

Notwithstanding the parade of œconomy which is visible through the report, it is remarkable, that both Sir John Cradock and Munro concur in estimating the advantages of the contract as being not more in peace, than were adequate to reimburse the expences of war. Hence, as the gain of the officers at one time, was balanced by their loss at another, it was a fair contract. No real saving could accrue from its abolition, but by a reduction of the camp-equipage, which would be a virtual reduction of the efficiency of the army. On the other hand, incident to its abolition were the additional expences of the indemnities proposed to be given to the commandants: these indemnities being, in peace, the half batta; in war, the full batta of the rank immediately above them. This would have been a large annual sum,—a dead,

unproductive expence, from which the Company were exempted by the operation of the Tent Contract.

The fruits of this plan have corresponded to the motives and principles in which it originated. The Company, at present, incur unlimited and indefinite expence. Duty and interest are now on worse terms than ever. It requires no very profound discernment, nor nice calculation of probabilities, to pronounce which of the plans is most liable to malversation; that which is carried on by an uncontrolled individual, or that which is under the mutual inspection and mutual check of a body of officers of rank and reputation. This strange interposition, however, of the Madras Governor in the military powers of the Commander in Chief, has, by some fatality, been thought worthy of another species of justification. Munro, in making the report, was acting under the orders of his superiors, which he was bound to obey. This, too, by the same persons, who, while they were gravely urging the argument, were protecting him in the most glaring disobedience and open

defiance to the Commander in Chief! Of what force was this principle in the case of Major Boles? Obedience to a superior officer in that case, received the construction and incurred the consequences of a crime. For that crime he was deprived of his subsistence, and sent out of the country with a studied indignity, as a criminal and traitor. Such are the disgraceful contradictions in which men involve themselves, when they wander from the high road of fair and ingenuous dealing, into the crooked bye-paths and dark windings of a selfish and narrow policy.

The most important question still remains to be considered;—the legality of Sir George Barlow's interference with the arrest of Colonel Munro.

In the order of the 1st of May, 1809, the Madras governor alleges, in allusion to the order issued by General Macdouall, that, by the express enactment of the legislature, “ the intire civil and military Government of the Presidency of Fort St. George is invested in the Governor in Council.” Refer to the act.\*

It will be seen, that the whole civil and military Government is vested in the governor and council, "subject to such rules, regulations, and restrictions, as aforesaid." What rules, regulations, and restrictions? To such rules, regulations, and restrictions "as are made, " provided, or established in that behalf, in "this act, or in any other acts now in force, and "not by this act repealed or altered." Is there any act unrepealed or unaltered, which creates rules, regulations, and restrictions relative to the military Government of the Presidency? The answer is to be found in the unrepealed, unaltered act, which the legislature had clearly in view when they framed this clause of the 27th of George the 2d, c. 13. That act prescribes the forms and rules of proceeding on military offences. It defines and limits the powers of the Commander in Chief. The military and civil Government of Fort St. George, therefore, is subject to the rules, regulations, and restrictions of this statute; which is not only a standing legislative ordinance, unaltered and unrepealed by any subsequent enactment,

but confirmed and extended, by an act\* passed in the first year of his present majesty.

The provisions of this statute, which may be called the standing Mutiny Act of India, will shew beyond all doubt the illegality of Sir George Barlow's interposition. It empowers † the king to grant a commission or warrant to the Court of Directors, who, by virtue of such warrant or commission, shall have power under their seal to authorize and empower their president and council, from time to time, to appoint courts-martial; and also to authorize and empower the Commander in Chief of the Company's forces, to appoint courts-martial, for the trial of any of the officers or soldiers under their command.

By a provision contained in the third section of the act, when a king's Commander in Chief is in India, (which is the case now under consideration,) the powers which were thus vested in the Governor in Council, devolve, without any warrant or commission, on the king's Commander in Chief. The discretion of bringing

offenders to trial, and the whole authority relative to courts-martial, are exclusively vested in that officer.\* These provisions are in full force and vigor. When the party accused is under the arrest of the Commander in Chief, he is out of the jurisdiction of the Government. If this be denied, the powers vested by the act in the Commander in Chief are secondary and subordinate, and the Governor exercises in fact, the Commander in Chief only in name, the authorities created by the act. No rational man can contend for such an absurdity.

The Governor in Council cannot invade the powers with which the statute has invested the king's Commander in Chief. As to the precedent on which Leith relies, of the release of Lieutenant-Colonel Sterling from the arrest of Sir John Burgoyne, it was universally reprobated and condemned as an unwarrantable procedure of Lord Macartney's government. But, though released by Lord Macartney, Colonel Sterling was again ordered into arrest by

\* 27 Geo. 2d, c. 13, s. 3, 5, 6, 8.

Sir John Burgoyne. This was made a distinct charge against Sir John Burgoyne. But the court passed it over without observation, and, with the articles of war before them, evidently considered it as a matter within the exclusive jurisdiction of the Commander in Chief.

The civil and military Government is modified, not only by the act of parliament to which I have referred, but by positive rules of law. The Governor has the control and superintendance of the civil service, and, subject to the East India Company, he may appoint the civil servants to certain stations; remove them (provided it be done without malice) to others; and, under the act of parliament, may send unlicensed persons out of India. But if a civil servant is arrested by criminal or civil process, the Government cannot release him. The act which erected the Supreme Court, operates so far as a limitation and control on the civil authority; and, by an obvious analogy, the act which created the military jurisdiction of the Commander in Chief, so far operates as a limitation on the military authority of the Governor.

Both these jurisdictions are sacred from the interference of the Governor. He has no more power to liberate a military officer from an arrest and its consequences, sanctioned by the authority of the king's Commander in Chief, than to liberate a defendant taken by process issued by the Supreme Court at Madras.

When, therefore, it is said that the whole military authority (for the word intire does not once occur in the act) is vested in the Governor in Council, it must be taken in reference to the words of the same statute, which qualify and restrict it. The Government may raise as many, or disband as many soldiers as they please; grant commissions, appoint to commands, allot stations, and march them away whithersoever they please. This is the *political*, rather than the *military* government of the army. But the discipline and internal government of the army, are exclusively vested in the Commander in Chief. Besides, a power of liberating from a jurisdiction legally established, is equivalent to that of pardon. I have not yet heard that Sir George Barlow has claimed that prerogative.

In aid of this reasoning, if it requires aid, let us advert to a few well-known facts. The Court of Directors, in order to impart to their Governor the military authority over the garrison of Fort St. George, issue a special commission, which gives him that authority. By that commission, the details of the troops within the garrison are under the control of the Governor. When they are out of the garrison, they are under the Commander in Chief.

If the military power of a governor of an inferior presidency, is exempted from the restrictions of the act which defines that of the Commander in Chief, *a fortiori*, the Governor-General is exempted from them. The appointment of Governor-General would carry with it an authority superior to that of Commander in Chief; yet Lord Cornwallis refused the appointment, unless it was united to that of Commander in Chief. Lord Wellesley obtained the special commission of Captain-General, which virtually constituted him Commander in Chief. It is evident, therefore, that in the opinions of those statesmen, the mere appointment of Governor-

General did not communicate the intire military Government; and that they required powers equivalent to those of a Commander in Chief, to give them that intire military control, which Sir George Barlow considers to be inherent in his own person. But though, from the construction put by these noble persons on the act of parliament, (a construction in which the king's ministers at that time, and the Directors must have concurred, and probably not without legal advice,) it does not, of itself, carry a conclusive authority; yet the words of the act are incapable of misconstruction. They are plain and unambiguous. The inference which they establish is unavoidable. Sir George Barlow, by the release of Munro from the arrest of the Commander in Chief, and by absolving him from the legal military jurisdiction, has been guilty of a violation of law for which he is criminally answerable.

The clamor which has overwhelmed the unfortunate General, has been indistinct though loud. Nor is it easy to trace the specific exceptions that have been taken to his conduct. In

the generality of indiscriminate abuse, his accuser has attempted to conceal the malice of his defamation. It seemed to have been enough for Sir George Barlow, and those who have echoed his language, that General Macdouall is dead and defenceless. Death, which into souls warmed with the common affections of our nature, inspires awe, and respect, and forgiveness, has in their hearts called into life and vigor the most unmanly resentments, and the most sordid passions. They have reserved, with the prudence which seems to be an ingredient of their malice, the dark insinuation, the unfeeling sarcasm, the bitter reproach, for that season when the hostility of generous bosoms expires and is forgotten. They hover about the prostrate carcase. They attempt to deface the pious regrets and fond remembrance of his friends, and to pollute his name in the very sanctuary, where the affections of all who knew and loved his virtues had enshrined it.

But of what crime has he been guilty in the vindication of his rightful authority? He shall not owe his protection to the immunities of the

grave. If he can no longer be tried by the same law which would have redeemed his living innocence, is it too much to expect that the posthumous inquisition which is instituted by an equitable public on his conduct, should be influenced by its spirit, and governed by its maxims?

If, therefore, the legislature had invested the Commander in Chief with the discretion of bringing to trial officers accused of military offences, it would be a solecism to contend that the discretion is criminal when it is called into exercise. That must be an odd sort of right, which becomes a wrong as soon as it is exerted. Has the legislature guarded it by limitations, or fettered it by restrictions? Let the limitations and restrictions, if they exist, be pointed out. If there is no legal qualification of the right, is that defect to be supplied by Sir George Barlow's arbitrary assumption of an emergency that demanded his interposition? Miserable indeed would be the condition of civil life, were the laws, from which rules of action were deduced, to depend on the conviction of individuals, that some necessity existed, or some emergency had

occurred, under which they might be relaxed, or suspended, or set aside.

But the very plea of emergency admits to the full extent the general proposition ; and the doctrine of their Advocate-General, in the opinion which he gave the Madras government on the subject of Munro's release, evidently builds their right of interposition on this supposed necessity. " If," says he, " in any particular case, a necessity should arise (of which Government are the only judges) to exert their indisputably supreme authority directly and immediately, it is perfectly competent for them so to do, by discharging any officer from arrest, or such other measures as the exigency of the occasion may require."

On the scheme of this doctrine, of which the unsoundness is apparent in the generality, the authorities which an act of parliament has cautiously separated from the civil powers, are rendered wholly dependent on the private speculations of the Governor. The Commander

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\* Papers printed for the House of Commons, No. 1, p. 16.

in Chief holds his military jurisdiction so long only as the Governor thinks there is no necessity for exercising it himself. But I am not complimenting such a doctrine with a formal refutation. It would be a satire on legislature to contemplate such an ambiguous, uncertain species of military power, as its grave and solemn enactment. On that precarious tenure no authority could exist; unless it was studiously framed by legislative wisdom, to involve in endless competitions and struggles, those powers which the safety and peace of the community required above all to be most clearly and explicitly defined.

It seems almost a waste of words to overload a matter which speaks so strongly for itself, by the weight of any argument. By some strange fatality, however, the invectives of Barlow and his faction have been allowed a sort of triumph, in the seeming acquiescence deduced from the silence of those who must have felt their falsehood. But let it not be forgotten, that by this spurious pretext of necessity the most barefaced

usurpations and malignant persecutions have ever been justified, when usurpation wanted a plea, or tyranny an excuse.

Shall it be said, that from the whole military establishment of the coast, a fair tribunal could not have been selected? The insinuation is a gross libel on the service. There is this predominant fallacy in the apologies for Sir George Barlow; they are built on the assumed corruption and profligacy of all around him. His defence is established on the infamy of his species. Grant him but this primary position, and he moves the world. Why are the military powers violated, which an act of parliament had vested in the Commander in Chief? Twelve officers could not be found, not even the very staff attached to the Presidency, to whom Munro's innocence could have safely been confided! The whole military body were united in one society of abhorrence against Sir George Barlow. Their sentence would have been corrupt and perjured. Follow him into the King's court of law. Why are the solemn verdicts of juries treated with scorn, contempt, and even punishment? All

there is faction and perjury!\* Popular resentments against the Governor were at work to bias

\* The subject of the trials, concerning which little is at present known, will be mentioned in its proper place. At present, it will be sufficient to advert to two malignant and deliberate falsehoods, contained in the following extract from the pamphlet of Sir George Barlow's agent in England.—

“ The legal questions which had been brought before the Supreme Court, became, in fact, only a branch of the more extended questions relative to the affairs of Government, which were then agitating the public mind, and which, being artfully blended with the legal discussions, the Supreme Court degenerated into a place chosen for the exhibition of indecent violence, and for a struggle of faction in opposition to lawful authority.”

“ In the greatest part of these scenes, General Macdouall took avowedly a near interest.” Accurate and Authentic Narrative. Printed for E. Lloyd, Harley Street, 1810.

It will be proved, probably at the bar of the House of Commons, that in the judicial discussions alluded to, no mention was made of the military transactions, nor any allusion whatever to the controversies then going on. If the indecent exhibition stated by this person did take place, where was the Judge, whose office it was to preserve decorum in the administration of justice? The whole is a fabrication. It is melancholy to observe, that on the miserable authority of this statement, the calumny is recorded in a verbose paper, signed by ten of the Directors, amongst the documents printed for the House of Commons by their order, 1st April, 1811. No. 4, page 71.

General Macdouall (is it a crime to attend a court of law?) attended twice only. He heard but one speech, the reply

and corrupt the oracles of justice. Such were the perverse destinies with which he was called on to struggle, though, before his arrival, all was peace, and order, and obedience. Whence did this storm of hatred and faction proceed? From the military retrenchments (in their worst effects they could have been only felt by a very small number of officers) which it was the duty of this unhappy man, who has thus fallen on "evil times" and "evil tongues," to carry into effect! These are the difficulties incident to the cause. Mankind must be convicted, if Sir George Barlow is acquitted.

Let us now turn to General Macdouall's conduct subsequently to this outrageous violation of his authority. For it is from this that his enemies,\* in their usual style of loose and con-

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of the counsel for the prosecution on Reddy Row's trial. These trials will be published in an authentic shape; and when the matter undergoes a parliamentary inquiry, witnesses will be produced, who will prove, beyond all controversy, that the calumnies thrown on the juries, prosecutors, and community of Madras, are wholly groundless. It is obvious for what purposes they were propagated.

tradictory accusation, appear to have drawn something like the guilt of exciting a mutiny, which did not break out till four months after his departure.

Liberal minds surely would not demand, under such circumstances, an unmoved stoicism of phrase and deportment. The authority of the officer of the highest military rank is set at nought by one of his own staff, under the sanction and countenance of the Governor. Nor were insult and indignity wanting in the mode and language of Barlow's interference. But in this procedure I have in vain looked for any thing even of that warmth, which, on such an occasion, would be at least pardonable. It breathes no comment on the measure adopted by the Government. It is a mere reprimand in general orders of Munro, for having made a *direct* appeal to that Government.

#### G. O. by the Commander in Chief.

“ Head Quarters, Choultry Plain,  
“ Jan. 28, 1809.

“ The immediate departure of Lieutenant-General Macdouall from Madras, will prevent

“ him from pursuing the design of bringing Lieutenant-Colonel Munro to trial for disrespect to the Commander in Chief, disobedience of orders, and contempt of military authority, in having resorted to the civil Government in defiance of the officer at the head of the army, who had placed him under arrest, on charges preferred against him by a number of officers; in consequence of which *appeal direct* to the Governor in Council, Lieutenant-General Macdouall received a positive order from the secretary to Government, to release Lieutenant-Colonel Munro from his confinement. Such conduct on the part of Colonel Munro being destitute of subordination, subversive of military discipline, a violation of the sacred rights of the Commander in Chief, and holding out a dangerous example to the profession, and his own station and character, he feels it incumbent on him to express his strong disapprobation of Lieutenant-Colonel Munro's unexampled proceedings, and considers it a solemn duty imposed on him to reprimand Lieutenant-Colonel Munro in G. O.; and he is hereby reprimanded accordingly.”

Where is the criminal or illegal matter of this reprimand? It is the dignified language of subdued feelings; conveying a censure on Munro's appeal, by no means inconsistent with the most perfect acquiescence in the act of the Government. No two propositions can be more distinct, than the right or propriety of the interference of the Government, and the offence of Munro against military law, which prescribes the channel through which complaints against superior officers are to be preferred. Whatever, therefore, might have been General Macdouall's opinion as to the legality of that interference, in this paper he is far from calling it into controversy. The censure passed on the inferior officer is exclusively confined to an appeal, of which the obvious consequence was the very conflict which he seems with a becoming delicacy anxious to evade.

A collision of authority between the two powers of the state, admitting that the statutes defining their mutual boundaries were obscure or equivocal, is no trivial matter. In the temper and tone of that time, the conduct of Munro in

provoking that collision was doubly criminal. But the disobedience of military orders, and the contempt of military authority, were substantive offences, standing alone, and not deriving their qualities from the merits of the policy pursued by the Government, nor bearing any relation to their competency to interrupt the course of military justice.

To illustrate this reasoning, let us hypothetically put the case in another point of view. Suppose the complaint of Munro against the orders of his superior officer, had received no countenance from Sir George Barlow, who, diffident of his authority to divest the Commander in Chief of his jurisdiction, had refused to entertain it;—will it be said, that Munro's conduct in making the appeal was not unofficer-like and irregular? He who maintains so absurd a position, must deny the validity of the articles of war, which have expressly prohibited that irregularity. How, then, is the argument affected by the subsequent concurrence of the Governor, in an appeal which was antecedently illegal; unless that concurrence, the very mo-

ment it was expressed, ousted the Commander in Chief of his authority? I do not recollect to have seen this absurdity gravely advanced, amidst all the voluminous folly, and elaborate trifling with reason and common sense, which have appeared in defence of that extraordinary measure.

The question lies within a narrow compass. It is said, that the appeal was rightfully made by Munro, and rightfully entertained by Barlow. But there is no mention of that right of appeal in the articles of war, nor in the statute which defines the powers of the Commander in Chief. The inference is inevitable. The right of appeal does not exist. It is a maxim of law as well as of reason, that a jurisdiction created by an act of parliament must be considered as final, where no appeal is specifically given. Had the charter which erected the Supreme Court at Calcutta and Madras, contained no clause allowing in certain cases an appeal to the King in Council, there would have been no appellate resort from their decrees. Neither the 27th of George the 2d, which is still unrepealed, nor the articles of

war framed under the authority of that act, which limit and define the military authority through all its gradations, grant an appeal to the Government from the orders of the Commander-in-Chief. Muuro's appeal was, therefore, in contravention of military law, and Sir George Barlow's interposition arbitrary and illegal.

I have traced these transactions, because they exhibit a systematic view of the conduct of the late General Macdouall, down to the last public act of his life. It might well be inferred from the severity of comment which that act has excited amongst the mean defamers of his memory, that the order in question was nothing short of a manifesto proclaiming open and armed resistance to the Madras Governor. Calmly reviewed, and rigidly inspected, what is it but a reprimand issued by the Commander in Chief of an army to a subordinate officer of his own staff, who had acted contumaciously against his authority? Nor can too much praise be conceded to the reflecting judgment and subdued feelings which abstained from every topic, and avoided every expression conducive to a serious conflict.

To a clear exposition, however, of the motives and conduct of the unfortunate General, it is essential to remember that he was preparing to proceed to England, whilst these very matters were in discussion. The order which censured Munro was not published to the army before his embarkation. This circumstance his enemies have seized with avidity, and, distorted from the simple interpretation of facts, it has been a fruitful theme of invective and reproach. Sir George Barlow's agent thus speaks of it, (and he is echoed by his friends at the India House and the writer in the Quarterly Review,) "General Macdouall was apparently impressed with the belief, that when a knowledge should be received of the last seal which he had put to his offences, he would be no longer within the reach of that power, which he had thus wantonly insulted and outraged."

When the awkward phraseology of this sentence is reduced into an intelligible proposition, it more than insinuates that General Macdouall,

meditating an insult to the Government in the order of the 28th of January, adjusted the time of its publication in such a manner, as to be himself out of their power when it reached them. The falsehood of the insinuation may be demonstrated by the progress of the transaction. Colonel Munro was ordered into arrest on the 20th of January, some time after the charges had been sent in against him. General Macdouall, in the letter accompanying the arrest, explained the causes of the delay. From that explanation, it appears to have been attributable only to the caution and deliberation with which, in a matter involving the most serious interests of an officer of his staff, he ~~was~~ anxious to proceed, the professional opinion by which he had determined to be guided having arrived only a few days before.\* On the same day, Munro sent in his remonstrance to the Commander in Chief. To this a reply was given the next day, (the 21st). Two days afterwards, (the 23d,) Munro appeal-

\* See Appendix to Mr. Buchan's Authentic Narrative,  
page 139.

ed through the Commander in Chief to the Government. That appeal was rejected, and on the 24th the Government demand from the Commander in Chief Munro's release, in consequence of his *direct* appeal to Sir George Barlow. To this demand, a protest is sent the next day, (the 25th,) by the General. On the 27th, an official letter is addressed to the Commander in Chief, in which a peremptory question is put, concerning his compliance with the *orders* of Government respecting the Quarter-Master General's release. This letter is answered by the Commander in Chief on the evening of the same day. He submits to the orders of the Government, protesting against them as illegal and unconstitutional, and Munro is released. The next day, (Sunday the 29th,) the Commander in Chief sailed for England. The intervention of Sunday, when no official business is transacted, of course suspended the publication of the reprimand till Monday; and on the morning of that day, the usual printed copy of the order was sent in the usual manner by the Adjutant-General to the Government, for publication to

the troops in the garrison. The order, therefore, could not, in the natural course, have been published before the day on which it came to the knowledge of the Government.

If these facts are not wholly fatal to the paltry insinuation of Sir George Barlow's agent, the well known dispositions of General Macdouall, pure from artifice, and widely remote from every thing cowardly or abject, will absolve him from the charge of having meanly slunk away from the consequences of his own wrong. It is an inevitable inference indeed, from the contrasted deportment of Sir George Barlow and General Macdouall on this occasion, that the former had the prudence to cork up the vial of his resentments till he could safely pour them out; for in a letter of the 25th, protesting against the interference of the Governor in the release of Munro, the Commander in Chief not obscurely, or by implication, but in plain words, tells the honourable the President in Council, " that he " will direct a charge to be exhibited against " Lieutenant-Colonel Munro, for disrespect to " the Commander in Chief, in presuming to

“ address the Government.” Four days before the embarkation of General Macdouall, he tells Sir George Barlow that he means to bring his favourite to trial for having had recourse to his protection. On this occasion, however, the prudent resentments of the Governor are asleep. Not a word as to the implied opposition to his Government contained in the menace.

*undo et compono quæ mox deponere possim.* The fury of his indignation was unchained as soon as the victim had escaped. For this purpose, a few discharges resounded from the guns of the fort, when the ships were but faintly descried on the verge of the offing. It was pretended that the signal was made for the recall of the ships, that the resolution of the Government might be publicly announced to the Commander in Chief.\* But the unhearing monsoon returned a sullen groan to the mandate of the Governor, and nothing was heard but the mingled chorus of laughter and contempt, and indignation at its impotent madness and ridiculous folly. This

\* \* Mr. Buchan's Authentic Narrative, page 71.

despicable farce 'was exhibited to a multitude of natives, whom the noise of the artillery had assembled on the ramparts; a memorable and instructive specimen of the civil wisdom and dignified firmness to which the mysterious decrees of providence had committed their destinies.'

It is well. Had the signal been obeyed, which the distance of the ships rendered impossible, other consequences would have happened. There is not a man correctly informed of the state of things at Madras, who does not know that the affront said to have been personally reserved for General Macdouall, would have been retaliated by a branch of the community, to whom, down to this period of time, the resentments against the Governor had been almost exclusively confined. Although, from obvious policy, they have been praised at the expence of those, on whom alone the calamities of the times have been visited, it is a fact susceptible of easy proof, that the dispositions of his Majesty's troops at the Presidency, would have rendered the measure meditated against the Commander in Chief, no very safe experiment.

When the guns of the fort had discharged the singular duty of firing signals which could not possibly be heard, the dignity of the Government remained to be vindicated by another measure; a memorable measure, the cause and origin of the long train of severities, crimes, and perturbations of the succeeding period: the precursor of a new plan of government, in which caprice was to take the place of law; arbitrary and occasional will to be substituted for that calm and steady reason, which is the essence of enlightened rule or substantial policy; and an experiment wantonly hazarded, to estimate as it were the precise quantity of oppression that was required to overthrow the discipline of an army, and to ascertain how much violence, persecution, and cruelty mankind were capable of bearing, before they could be goaded into despair, and tortured into phrenzy.

This was an order expressing the displeasure of the Governor at the reprimand on Colonel Munro, directing it to be expunged from every public record, and annulling the Commander in Chief's appointment, (an appointment which, upon his

embarkation for England, he had virtually resigned,) but as that officer was out of the reach of the Governor, he exhausted the residue of his virtuous indignation on the defenceless head of the Deputy-Adjutant-General, Lieutenant-Colonel Boles, by suspending him from the service, because, in official obedience to the orders of the Commander in Chief, he had signed and circulated the censure.

Colonel Capper, who was the Adjutant-General, immediately proceeded to the Governor to represent to him, that in circulating that order, his deputy Colonel Boles had merely obeyed him as his superior; that whatever of blame could attach to such an act, it was his, as the head, and not that of Colonel Boles, who was merely a subordinate in the office. The door of the august presence was closed on Colonel Capper. But the result of the intimation, which was made through Mr. Buchan, was the publication of another order the next morning, (Feb. 1st,) which suspended also Colonel Capper from the service, "it having been made known to the Governor in Council, that the

“ Adjutant-General of the army was materially implicated in giving currency to the offensive general order of the Commander in Chief.” But the Governor still adhered to the original rigor of his resolution with regard to the Deputy.

Here let us pause. • The reasonings concerning the release of Munro, of which a short recapitulation may be useful, have been deduced from the plain, intelligible language of the law. The 27th of George the 2d, which empowered the King to make the articles of war now in force for the government of the Company's forces, imparted to the Commander in Chief the power of appointing courts-martial. The articles of war framed in pursuance of that statute, and now subsisting, define and specify the various military offences which fall within the cognizance of those tribunals, and the forms of process by which delinquents are to be brought to trial. Charges imputing to Colonel Munro an offence of this class, were submitted to the Commander in Chief, who, in the legal exercise of his discretion, and in conformity to the estab-

blished usage of the service; ordered the party into arrest, for the purpose of bringing him to trial. He was released from that custody, and the process which was issued against him set at naught by the arbitrary mandate of the Governor. Sir George Barlow, in his defence, betakes himself to an act of parliament, the 33d of George the 3d, which, according to his interpretation, confers on him the whole civil and military government. But the act gives him the whole civil and military government, subject to rules, regulations, and restrictions provided in the same act, or other acts now in force and unrepealed. The 27th of George the 2d is yet unrepealed; and the Commander in Chief was unlawfully molested in the exercise of the powers he derived from it. Acquiescing, for obvious reasons, in the orders of the Governor, he released the prisoner; but in pursuance of the articles of war, and the established usage of the service, published an order, censuring the irregular conduct of the officer who appealed to the civil government. For this, he was deprived of his appointment; and the subordinate officers

who, in publishing the censure, acted merely in subservience to his orders, and in the true spirit of military subordination, were punished without trial and without inquiry. -

Sir George Barlow, however, deserted by reason, law, and justice, found an advocate, or rather a protector, in the Governor-General of India. An elaborate vindication of the release of Munro, and the proceedings against General Macdouall and the Adjutant-General and his Deputy, is attempted in his Lordship's letter to the Madras Government of the 27th of May, 1809.\* In that vindication, the noble writer disclaims all notice of the acts of parliament. It is doubtful whether he considered the mere perusal of them at all necessary to the solemn judgment he has pronounced on so grave a question of legal competency. But from what premises he has deduced both the right of Munro to appeal, and that of the Government to intervene, may be seen in the 58th paragraph of that piece, where he observes, " that Lieutenant-

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\* Papers printed for the House of Commons, No. 3.

“ Colonel Munro had exhausted all the means he possessed of obtaining relief from the Commander in Chief.” He admits also, that in the first instance it was his duty to do so; but that when justice was denied him in that quarter, he had a right to claim the protection of the supreme military authority, which by law is vested in the Governor in Council.

Here, in the same sentence, the duty of Munro to appeal to the Commander in Chief is admitted, and a right set up, when that appeal is ineffectual, of appeal to the Governor. It may be asked, of what efficacy is the duty of first appealing to the authority of the Commander in Chief, when instant recourse may be had from that authority to that of the Government? The decision on the first appeal not being final, must be nugatory and unavailing. When justice is denied, (and of this the party himself is the only arbiter,) his complaint comes within the cognizance of an appellate power, not erected by statute, not established on usage, but created by the mere conceptions of the appellant, however crude or erroneous; that justice has been denied

him. The refutation of this absurdity is short. The right of appeal to the civil government in cases within the articles of war, is not to be collected, either in expression or implication, from any of the acts of parliament for the government of India.

If, however, this Lordship means that the prisoner, having no other remedy, might claim protection from the equitable maxim of general law, which declares that no wrong can be without remedy, he has unhappily overlooked the legal, and contemplated an irregular remedy. The Supreme Court was open to Colonel Munro. The Commander in Chief (not being in Council) was subject to its process. Being armed with powers similar to those of the King's Bench in England, and it is quite competent to correct the excesses of inferior jurisdictions. If the Commander in Chief abused or exceeded his powers, a writ of prohibition, or an action at law for damages, would have checked the injustice, or awarded a compensation to the sufferer.

There is, indeed, in another passage of this verbose epistle, an argument in favour of the

powers of the Government, drawn from General Macdouall's submission to them, at which every thinking mind must tremble. " If the Government did not possess those powers, General Macdowall owed them no obedience." " That the Government of Fort St. George is not restrained by law from the particular exercise of the supreme military powers which it possesses, was acknowledged by General Macdouall himself, since he obeyed their order for the release of Lieutenant-Colonel Munro."

This mode of arguing from an acquiescence in the wrong, (though strongly protested against,) to a concession of the principle, leads to consequences of much higher moment than those of mere logical fallacy. It would convert a verbal into an armed controversy; and, practically enforced, every speculative doubt which might arise on the construction of a law ambiguously expressed, or the boundaries of a power obscurely defined, would grow into a contention of physical strength. General Macdouall has earned the suffrage of all rightly-organized minds, for his

dignified but peaceful demeanor on this interesting occasion.

Let us now take our leave of this branch of the subject. The letter of the noble Lord, the article in the Quarterly Review, and the misrepresentations of the pensioned agent \* are hastening into the silence of contempt and oblivion. A new train of incidents, hitherto unexampled in the history of our colonial governments, is to be unfolded. I shall pursue this task with the sobriety of truth; but whilst I record facts, I shall not suppress the indignant comment of reason and feeling; nor pass them by with that unnatural coldness, which renders a man half an accomplice to the crimes he is narrating.

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\* As a specimen of the veracity of this writer, it is worthy of remark, that he accuses General Macdouall of having forwarded to the Court of Directors, on behalf of the officers, an improper memorial, for a copy of which he refers the reader to his Appendix. On turning to the Appendix it will be found, that the memorial he has inserted there is not that which was forwarded by the General, (which contained nothing exceptionable,) but another of a different complexion, never acted on, but intended to have been forwarded to Lord Minto.

We have seen the Adjutant-General and his Deputy punished by suspension from the service, for an act done in the ordinary discharge of their duties, and in obedience to the orders of their military superior. As this was the first setting in of that tide of severity, which in a short time swept away a long list of honourable and meritorious men, this is the proper place to inquire into the character of this punishment of suspension, that it may be seen what proportion it bears to the supposed offences of those whom it has visited. If light in its immediate pressure, transient in its operation, or mild in its consequences; if easily remediable in cases of hasty or unjust infliction, it is obvious that there has been more of noise than of suffering in the complaints of its numerous victims. Let it not, however, be imperfectly understood. Next to capital infliction, (if that which despoils life of every thing be not equivalent to death,) it is the heaviest instrument of arbitrary power. Nor, in our estimate of this cruel authority, must it be forgotten, that it is preceded by no form of trial, or sentence judici-

of a severity, that you feel the stroke of the punishment before you hear even a whisper of your accusation. Not the slightest shadow of an investigation; not even the formalities of inquiry. If the unhappy victim of this worse than royal displeasure, ventured on a remonstrance, it was breathed to averted ears, and an unpitying heart. The trial by court-martial, in which military men in better times found a refuge from power, and a safeguard of innocence, was contemptuously refused during the whole of these suspensions, to every man who besought it. His very suit for that indulgence, which is in the class of fixed, inviolable rights secured by law, rather than of indulgencies, was distorted into contumacy, or punished as insubordination.

In the mean time, the victims of this proscription are suddenly removed from their rank, their office, deprived of their subsistence, forcibly torn from a country, in which from early life they had taken gradual root; where their habitudes and connections had grown up; and

transported to England, now converted into a foreign land, by the estrangements of distance and separation. Can we hear of such punishments inflicted on men not even heard in their defence, without sensations of disgust and horror? those men too of elevated stations in a service, whose blood had but recently been shed in defence of the very power which they were accused of subverting; and whose valour and loyalty had extorted, but a few weeks before, the recorded praises of the very man by whose authority they have been despoiled of their hopes and their fortunes.

Is it said, because the punishment of suspension is not definitive, but in the nature of a reference to the Court of Directors in England, that these evils exist only in fancy or declamation? The punishment is already suffered, though the sentence is reversed. Delay, the anguish of protracted expectation, the expence of a voyage defrayed from a ruined fortune,—are not these in the nature of positive inflictions, sustained before the sufferer is heard, or his case investigated? Few, indeed, are his

chances even of this imperfect justice. Condemned in India, he is pre-judged at home. The minds of his judges are pre-occupied by his accusers. He is not confronted with witnesses. The testimony which might shew his innocence, remains in the country from which he has been relegated. Without interest or connections, he has to stem the torrent of misrepresentation and evil report, with which, in their own justification, the local government has sent home against him. The very correspondence containing the accusation and the evidence, is secret. And if, by these means, his oppressors have a prevalence amongst the Directors sufficiently powerful to defend their measures and uphold their system, the injuries of the individual are overlooked, and his fortunes sacrificed to the policy which it is the humour or fashion of the hour to sanction. It is right, therefore, that the degree of suffering incident to a punishment which Sir George Barlow has dealt out with so much prodigality, should be well appreciated whilst we are looking for adequate causes for the revolt of a

*loyal and honourable body of men, and the universal abhorrence and dissatisfaction which surround him.*

In the mean time, the army remained, not the unmoved perhaps, but the quiet spectators of the tempest which had burst on the staff officers. Undisciplined to the nice distinctions or skilful sophistries with which sinister measures are sometimes glossed over by their authors, it came home to their bosoms, as an act of severity inflicted on those gentlemen for the faithful discharge of duties, which military men could not evade. The vibration was felt through the whole of the body. It seemed as if all military maxims were subverted; as if armies were to be governed by a vindictive discretion, instead of a known and uniform rule of action; or rather, to be entangled between two opposite and contradictory obligations.

There is a process of reasoning which acts with the rapidity of feeling. The complexion of former measures coinciding with the character of this; the tone, the language, the manner, (matters by no means of trivial moment in the

art of government;) but, above all, the temper and habits of the man they had to deal with, diffused the sad conviction, that from Sir George Barlow they could not expect the attention of a wise statesmen to their complaints, nor the sympathy of a humane heart in their sufferings. These were gloomy auguries. Unfortunately, they received a confirmation in the proud and sullen rejection of a memorial to the Court of Directors, which a very large portion of them had individually signed, which the Commander in Chief had presented to the government for transmission to England, and which was a petition for the redress of the grievances it enumerated, unexceptionable in its style, and moderate in its object. - -

The utmost tranquillity, however, prevailed. Military duty was not suspended. Military ardour was not abated. By a singular complexity of affairs it happened, that at this very time, which, in Barlow's letters to the Directors, and in the writings of his apologists is marked as the season of an incipient disaffection in the army, a considerable part of that

*body were carrying the dread of the English arms by prodigies of valour, into the remote and almost inaccessible province of Travancore.* Surely this was the interval, if not for grace or concession, for abstinence at least from the further prosecution of an austere and forbidding policy. Man, either alone or confederated, is easily subdued by mildness and conciliation. But other counsels prevailed. The punishments of Boles and Capper were followed by new acts of rigor. The forms of military law were abolished. The rights of military men were neither respected from policy, nor protected by law.

The task, however, of ascending this climax of injudicious severities towards the army, must be suspended, while we turn to the administration of Sir George Barlow in the civil department, in which similar discontents began, about this time, to be generally diffused.

But the military and the civil agitations, though the fruit of the same policy, had no other correspondence than coincidence of time. It is the felicity of the government of Sir George Barlow, that while you are busied in

tracing the *disgusts and discontents* of one set of men, you are diverted by the complaints and clamours of another. His apologists assert a criminal connexion between them.\* They forget, however, that Sir George has himself narrowed the sources of the military troubles to the œconomical retrenchments which cut down the military allowances. It is not pretended that the civil part of the community resented the grievances of the military. In truth, there could be no sympathy between these two classes of malecontents, of a kind to render the imputed criminal connexion so much as probable. One fact is decisive of the question. The military dissatisfactions had scarcely begun, when the trials for forgery, from which the civil discontents, as they may be called for the sake of distinctness, are mainly deducible, had already made a considerable progress.

\* “The agitation was far from being confined to the military, but extended to the civil branches of the service; and the factious parties, in both departments of the service, became closely connected in their criminal views.” Mr. Buchan’s *Authentic Narrative*, p. 54; a concise, but complete condemnation of Sir George Barlow.

Admitting, however, the fact, the coincidence of a hostile sentiment at the same instant in both services can hardly be tortured into an argument for Sir George Barlow. It is but a poor vindication of your quarrel with Mævius, that you have at the same time incurred the detestation of Caius. Surely it would have been more prudent to have kept back from the defence of the Governor, the dubious merit of having united all orders and descriptions of society against him.

But in pursuing these discontents from their various sources to their confluence in universal hatred, we must endeavour to obtain a distinct view of their origin. For this reason, the civil grievances must not be too hastily dismissed. They constitute a passage of Sir George Barlow's government, which, without context or comment, well illustrates its genius and temper. And amongst those grievances, for they are varied in character and kind, his conduct relative to certain trials that were had in the Supreme Court of Justice, a court subsisting by his majesty's charter, must be contemplated with ex-

trema solicitude by all who have not lost their reverence for the law and constitution of their country.

If this transaction has hitherto called down no parliamentary inquiry nor criminal responsibility, it is because it has been but imperfectly understood, or represented only through the reluctant statements of the very persons who must be tremblingly anxious to suppress it. Hereafter it will stand forth with a prominence in the history of our Asiatic affairs, that will throw into shade and obscurity the worst of those crooked and pernicious measures, which have yet disgraced the English name in India.

The Supreme Court of Madras was erected by charter, in pursuance of an act passed in the thirty-ninth and fortieth year of the present king. The charter was a new modification of the Recorder's Court. It created a criminal, civil, admiralty, and ecclesiastical jurisdiction over native and British subjects within the town and limits of Madras, and the territories dependent on the Government of Fort St. George. By

this charter, the sheriff is empowered in criminal cases to summon juries of British subjects, and the judges are directed to conform their practice as a court of *Oyer and Terminer* and *Gaol Delivery*, as far as circumstances will admit, to that of the Court of King's Bench in England, in its criminal jurisdiction. Since the erection of these courts, they furnish no example of the interposition, immediate or remote, of the Government of Fort St. George, either in obstructing their proceedings, or intimidating suitors from resorting to them, or in molesting persons for instituting prosecutions, or jurors for pronouncing their verdicts, either by deprivations of their offices and emoluments, or any other species of animadversion. Before Sir George Barlow, no such attempt had been made. It seemed to have been well known, that an English court of law was armed with authorities which, in the hands of independent and upright judges, were adequate to vindicate its dignity, and protect its independence. No man in the insolence of power, had yet dared to proclaim juries, who unquestionably are the most revered

ministers of British justice, to be perjured factions. It had hitherto been the good fortune of Madras to have had Governors, whose education in the country of their fathers had taught them some regard for its institutions.

The origin of the debts incurred by the late Nabobs of the Carnatic, must be well recollect-  
ed. The shadowy sovereignty still permitted to those personages, hung on the delicate thread of their punctual payment of certain kists or tributes to the Company. They incurred, in default of payment, by the conditions of their treaties, the absolute forfeiture of the territory from which they derived the means of fulfilling them. To meet, therefore, the annual exigence, they had recourse to loans from individuals, who, on the faith of their possessions, advanced them sums of money at an exorbitant interest. These loans were made on personal obligations, or by actual assignments called *teeps* of the accruing produce of certain districts in the Carnatic.

On the assumption of the Carnatic by the Company, the various creditors of the Nabobs,

instead of this actual or implied pledge, could only look to the equitable liability of those who had taken the territory, to its antecedent conditions and burthens, and to that discretionary justice, which not unfrequently infuses into acts of mere sovereignty a regard to private right and individual interests. But it was generally understood, that in this instance the suggestions of policy were in unison with those of justice, and that a portion of the future revenues of the Carnatic would be applied to the liquidation of its debt. In the mean time, as many of the creditors from poverty, or from an inability to wait the issue of a protracted investigation, offered to part with their debts on easy terms, the bonds of the Nabobs became matters of ordinary dealing in the market, fluctuating in the discount at which they were sold with the various speculations that prevailed, as to the period or mode of their adjustment. It was in the interval between the first appearances of a disposition in England favourable to the claims of the creditors, and the passing of the act for their final adjudication, that Nabob's bonds began to be

bought with great eagerness by persons who were allured by an adventure, of which the stake bore so small a proportion to the profits.

Of these adventurers, the most confident were Mr. Austruther, Mr. Orme, and Mr. Walter Grant. These persons individually and in partnership became, about the years 1804 and 1805, holders by assignment of these securities to a very considerable amount. The two former of these gentlemen were Advocate-General and the Company's solicitor, offices of high trust and respectability. It has been since ascertained, nor is the fact controverted, that the person, by whose recommendation, or through whose instrumentality those gentlemen had made their purchases, was Roya Reddy Row, who was then Peischar to the present Nabob, and a man high in his employ and confidence. To this person, who, by his access to the dufters of the late Nabobs, (which were the records of their pecuniary transactions, and which, from the death of the Omdut ul Omrah in 1800, till the arrival in 1808 of the commissioners appointed under an act of parliament, a space of more than seven

years, had remained in the Chepauk palace in a loose and careless custody,) they naturally took themselves for information relative to the bonds which were offered to them. Reposing with too much credulity on the character of Reddy Row, it appears that by degrees he became the sole oracle that influenced them in this species of adventure ; and on the faith of his representations, they were unhappily deluded into a purchase, amongst various others, of the *principal share of a bond of the Omdut ul Omdah* for 38,000 pagodas, or £15,400 sterling. For several months preceding the arrival of the act of parliament at Madras, it is well known that a most intimate connexion had subsisted between Reddy Row and Mr. Anstruther. It is obvious, therefore, that the success of those speculations became identified with the credit of Reddy Row and conceding to the speculators the most conscientious conviction of his integrity and honesty, it may be fairly presumed, that a bias stole insensibly on their minds in favor of a man, to whom they had intrusted the disposal of a considerable part of their fortunes. The im-

portant fact, of itself an index to the problematical and mysterious parts of the transaction, that Mr. Anstruther was a sharer in this bond, was sworn in the Supreme Court by Mr. John Tulloh \* on the 20th of January, 1809. Of the general participation of Mr. Anstruther in the bonds recommended by Reddy Row, there had not been at any time a doubt ; and it was strongly suspected, before it had been judicially attested, that he was also a sharer in that which is now under consideration. No one now affects to deny it.

The commissioners nominated in pursuance of the articles of agreement between the creditors and the Company, from the Bengal civil service, (a provision wisely calculated to exclude all local bias from the adjudication,) arrived at

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\* This gentleman was summoned on the special jury for the trial of Batley for perjury, and on his objection to serve as a juror on the grounds of interest, being examined on the *soir dire*, swore that he was interested in a share of the bond which was the subject-matter of the indictment, as a member of the firm of Tulloh, Brodie, and Co. ; but that one twentieth of it had been disposed of to Mr. Anstruther. Mr. A. afterwards bought other shares of it from different persons.

Madras in the year 1808. By the covenants of that agreement, an annual sum deducted from the revenues of the Carnatic, of three lacs and forty thousand pagodas, is appropriated to the liquidation of the debt, and divided amongst the creditors who should become parties to the agreement. By a clause in the act of parliament, each creditor was empowered to *contest the debts of other claimants*. When, therefore, it was quite notorious that numerous forged bonds and fictitious debts had been sold in the market, it became the interest of each individual creditor to inspect, with the keenest jealousy, into every demand on a fund, in the distribution of which he could only participate in a ratio to the aggregate claim established against it.

With these controversies, the Government of Madras had no visible concern. They ought to have remained calm spectators. The act constituted the commissioners an independent forum to decide between the litigant claimants. They were remunerated out of the fund for their services. With proceedings instituted in his Ma-

jesty's Court, the Government had still less to do. The commissioners, who were merely the arbiters of disputed claims, could not depart from the sternest neutrality of deportment, without the most indecent violation of duty, and disregard of character.

The creditors interested in the fund, are of two descriptions, those who had actual concerns with the Durbar, previous to the act prohibiting these transactions, and those who claimed as assignees under them. When the actual creditors found that the fund appropriated to the payment of the aggregate debt, from the hourly increasing mass of spurious claims, was likely to be inadequate to its liquidation, they traced with great activity and zeal the suspicious demands to their sources. They found some of them artfully connected with real transactions that had taken place at the Durbar. The agency, therefore, of some of the servants in the employ of the Durbar, was naturally inferred; and as Reddy Row had tendered in his own name a considerable claim on the fund, on various securities, and had been instrumental in the sale of

others by authenticating them as real Durbar transactions, suspicions began to be entertained of his immediate or virtual participation in the *bonds which were impeached as forgeries*.

It is difficult to discern with what colour of reason or justice Sir George Barlow could interfere. The detection of Reddy Row's crimes was no opposition to him or his government. It would be senseless to infer that the creditors of the Nabob were engaged in a factious confederacy against the Governor of Madras, because they bestirred themselves in disputing the claims and unravelling the frauds of Reddy Row. Yet, in the progress of these transactions, will be discerned as complete an identity of interests between Sir George Barlow and Reddy Row, as if they were constituent members of the same government, each of which was interested in the support and preservation of the other. We are not, however, without a clue to guide us in this labyrinth of folly, absurdity, and oppression.

When Reddy Row's claims were brought into controversy, it is obvious that the suspicion would be extended to the whole class of bonds

in the sale of which it was notorious that he had been employed. There arose therefore two parties among the creditors ; those whose interest it was to discredit the *boycs of Reddy Row*, whether in his own hands or those of purchasers, and those who were influenced by opposite interests to uphold and authenticate them.

Was the Governor of Madras called upon to mix in the conflicting interests of these parties ? It was a wanton gratuitous interposition, lying out of the obvious path of his duties ; and if the eyes of man could be shut to the motives which urged him to throw the weight of his power into the scale, it would still be condemned as another kind of that busy meddling policy, a branch of that universally officious interference, which has chequered the administration of Sir George Barlow with the malicious impertinence of the gossip, and the odious cruelty of the tyrant.

While the supposed claims of Reddy Row lay under these doubts, and every day was bringing to light new circumstances of suspicion, it is remarkable that he himself was confidentially

employed by the commissioners. He was actually attending their board as an assessor, recommended it is said to that office, by the aid which he was enabled to give them in discriminating the false from the spurious claims. The amount of demand which he had preferred before the very commissioners whose adjudications he was thus invited to assist, was 489,445 star pagodas. In such a selection, he must have obtained credit for an elevation of virtue almost beyond the reach of humanity. If disinterested impartiality was expected from a man, whose opinions, though subject to no official responsibility, could nevertheless affect the fate of his own, by the influence they had on the claims of others, the commissioners shewed themselves wholly unread in one of the most trite pages of human nature. This man, as it was sworn on his trial, had constant access to the Durbar papers, (the dusters,) which were kept in a custody by no means vigilant. They were open to Reddy Row.\* The

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\* These voluminous trials will be published, as they were taken down by a writer who has been sworn to the fidelity of his notes. Let them be compared with the mangled,

frauds of which he was accused presupposed an access to them, by means of which he connected

and in many instances false reports, which have been sent to the Court of Directors, and produced by that board to the House of Commons. On the examination of Mr. Goad, one of the commissioners on the trial of Reddy Row, the following facts were sworn to.

By Mr. Anstruther.

Q. Can you specify in which duster the papers No. 22 were found?

A. The Dewanny duster.

Q. By whom were they found?

A. They were picked out or pointed out by Reddy Row.

Cross-examined by Mr. Marsh.

Q. I believe the moonshee had the custody of, or generally has the keys of the dusters?

A. He generally has the keys.

Q. The moonshee chiefly has access to the papers?

A. Yes, conjointly with the Durbar officers, or the commissioners.

Q. Do you consider Reddy Row to be a Durbar officer?

A. Yes.

On the subsequent trial of Batley for perjury, (which arose out of the former trial,) Mr. Goad's evidence is very material.

Mr. Goad examined by Mr. Anstruther.

Q. From whose custody did you receive them?

A. From the present Nabob, Azeem ul Dowlah.

his claims with real transactions recorded in those registers. That access, which he notoriously had to those papers before the arrival of

*Q. How were they brought?*

*A. By Mr. Batley in thirty-nine trunks, the greater part under seal.*

Cross-examined by Mr. Marsh.

*Q. Before you saw the dusters, did you know how they were kept, or did you observe when you received them, whether they were all sealed?*

*A. I know nothing about them. Some part of them perhaps were sealed.*

*Q. You have heard, perhaps, that the dusters were not kept with that care they ought to have been?*

*A. Yes. From appearances, they were not kept so regularly in the Onidut's time, as before.*

*Q. That was the case particularly with the Dewanee papers?*

*A. Yes.*

*Q. I believe Reddy Row had the charge of that department?*

*A. Yes.*

*Q. Who generally has access to the dusters?*

*A. The moonshee, with the Durbar servants, Tremal Row, Coop Chund, and Reddy Row.*

*Q. Who has had charge of the keys since the last trial?*

*A. We now keep the keys of the dusters; but before, they were in various hands. The key of the desk in which the keys of the records were kept, was intrusted to Mr. Chapman, the moonshee, or Mr. Russel's confidential moonshee.*

the commissioners, being still permitted to him, a slight degree of ingenuity would have afforded him, in the complex accounts of the Durbar, materials to give his claims whatever shape and semblance they required. Reddy Row was recommended to the commissioners by Mr. Anstruther. It was at his instance and by his suggestion, that he was continued in an employ, which the other creditors with some reason apprehended to be dangerous to their interests.

It is peculiarly deserving of notice, that the creditors, who afterwards appeared as the prosecutors of Reddy Row in the Supreme Court, and for that prosecution were punished by Sir George Barlow, were not the channels through which the frauds of Reddy Row were first brought to light. A Mr. Loyd \* had been en-

\* The narrative of this person, whose credibility has not been denied, will be brought before the public. The following extract from it will illustrate this part of the subject.

" After I was well acquainted with the forgery, I waited on Mr. Anstruther, when it appeared that he paid little attention to what I represented, and visitors coming in, he said I might call on him again if I chose. After a lapse of some days, I waited on him again, when he ex-

gaged in the detection of several forgeries of bonds for a considerable time before Sir George Barlow's arrival; two persons, who had been confidentially employed by *Reddy Row*, having imparted to him some interesting information relative to the manufacture of those instruments.

These circumstances Mr. Loyd, without any communication either with Mr. Maitland, Mr. Parry, or Mr. Roebuck, (the victims of Sir George Barlow's indignation,) communicated to the new Governor, shortly after he had taken the chair at Madras. It was from a mere misconception that this reference was made. The subject was wholly out of the province of the

“ pressed his disinclination to listen to the affair, unless in  
 “ the presence of Mr. R. Orme, (the Company's solicitor,)  
 “ and Mr. Orme accordingly attending, I communicated to  
 “ them both what I had to say, when Mr. Anstruther re-  
 “ plied, if these facts were proved as I stated them, it  
 “ would half ruin him, that he should be obliged to remain  
 “ many years longer in the country to retrieve his losses,  
 “ adding, that there was a club of them who had purchased  
 “ bonds to a large amount. I repeated, that I was posi-  
 “ tively assured *Reddy Row* was the first who began the  
 “ forgeries after the death of the late Nabob. They both  
 “ replied, that *Reddy Row* was a very honest man, and  
 “ that whoever informed me to the contrary, was wrong.”  
 Mr. Loyd's Narrative. MS.

Governor. The act had made the commissioners the arbiters of the claim. The fraud was only cognizable in a court of criminal jurisdiction. Sir George Barlow, however, through a misinterpretation of his duties, entertained the application; and, by a lamentable fatality, referred it to Mr. Anstruther and Mr. Orme, the very persons whom common sense and justice would have zealously excluded from the inquiry. They recommended the investigation of the charges against Reddy Row by a committee. The suggestion was adopted. A committee of four was formed, of which Mr. Anstruther was the chairman, and Mr. Orme the secretary. The result corresponded to these beginnings. The two other gentlemen considered that the conduct of the enquiry belonged chiefly to the two lawyers. The witnesses were threatened and intimidated; and this despicable mockery of an investigation ended in a report of the committee, in which the charges against Reddy Row were declared to be wholly false and malicious.

That Sir George Barlow was in the beginning uninfected with all bias or passion, on a subject

which neither concerned him nor his government, I willingly concede. But his neutrality was of short duration. In the sequel of these disgraceful matters, he became animated with a zeal for Reddy Row, which will remain a perplexing problem to those who are not accustomed to trace the progress of the passions, or have not studied the aberrations of the mind and intellect of man.

In the mean time, the commissioners published the list of claims which had been preferred before them. Of these, the first was this very bond purporting to have been executed in favor of Gopaul Row for 38,500 pagodas, and bearing date the 26th of July, 1798. It did not escape the observation of those who were interested in the subject, that this claim was by no means the first in the order given in. Avadanum Paupiah Braininy, who was a creditor to a considerable amount, gave instructions to his attorney to challenge the claim. The circumstance which first suggested Paupiah's opposition to the claim, was the information which had been collected by Mr. Loyd, and the testimony which had been

offered to the mock-committee of which we have been speaking, by two native witnesses, who were intimidated (as they afterwards declared) from giving their evidence before it. In the progress of the investigation before the commissioners, a strong disposition to support the bond was manifested by those gentlemen, and the result of that investigation was a decision in its favor. Impressed with the sincerest conviction, that the evidence by which the claim had been impeached had not been duly weighed by the commissioners, who were men, if not of very humble talents, by no means conversant with judicial enquiries ; that an invincible bias towards the claims of Reddy Row, in whom they notoriously placed unlimited confidence, had influenced their decision ; and that a perpetual communication between the commissioners and the law officers had been carried on relative to the claim in question ; and above all, that the frauds imputed to Reddy Row, if capable of proof, were proper subjects of criminal punishment, several creditors came to the determination of commencing a prosecution against him.

For this purpose, informations were preferred before Mr. Maitland the sitting magistrate, and Reddy Row, with Anundah Row, a supposed accomplice in the fraud and forgery, were held to bail to take their trial at the ensuing sessions of Oyer and Terminer.

It is scarcely possible to conjecture how an appeal to a court of law by British subjects, could manifest a contumacious opposition to the Government. If the creditors, or any number of them, found themselves engaged in an unequal struggle with a claimant, whose demands on the fund, though false and fraudulent, were unaccountably supported by the commissioners; in bringing the matter before a criminal judicature, they acted with no unbecoming solicitude for their own, and certainly with a commendable zeal for the public interests. The commissioners were merely competent to decide the claim as it regarded the individual; but in a case of fraud, it was only in a criminal court that they could seek that vindictive justice, by which the public are secured from wrong and depredation. Pursuing this course, they brought

the question before a tribunal, from which partiality and prejudice were at least as much excluded, as from a board, at which the man himself whose frauds were investigated, was well known to be in constant attendance in an employ of the highest confidence. It is perhaps a courtesy due to an English court of law, to concede to it that *higher rectitude of decision* which has hitherto characterized it as the best institution of human wisdom, either for the protection of innocence, or the discovery of guilt.

While the informations were pending, the law officers, under instructions from Sir George Barlow, attended on behalf of Reddy Row and his accomplice; and in answer to an application which the sitting magistrate made to the commissioners for the production of the bond alleged to be the subject matter of the fraud, they wrote a letter intimating their opinion, that the prosecution was the fruit of a conspiracy against Reddy Row; that Paupiah was at the head of that conspiracy; and "that "they had recommended it to the Governor in

“ Council, to direct the law officers to inspect  
“ their proceedings, with a view to a prosecution  
“ against Paupiah.” This menaced prosecution never took place.

It seems that Sir George Barlow had now arrived at the determination of lending support and countenance to Reddy Row. He threw the sword of his authority into the scale. Mr. Roebuck, Mr. Parry, and Mr. Abbott, being creditors to a considerable extent in respect of actual concerns with the Nabobs of the Carnatic, had been deputed at a meeting of the creditors, which had been convened when the extent and amount of the suspected claims first awakened the public attention to take such steps as they might deem advisable for the protection of their interests. These gentlemen, by virtue of this delegation, appeared as Reddy Row’s prosecutors; but before it could have entered into their contemplation that the delinquent was countenanced and defended by the Government. When, therefore, they observed that impediments were studiously interposed, to defeat the prosecution; that besides the threat of a counter-prosecution,

against Paupiah, the law officers had procured Sir George Barlow's instructions to proceed against two of the principal witnesses, for an alleged perjury before the commissioners; and that these proceedings were begun in the midst of the examinations that were going on against Reddy Row, they addressed a respectful remonstrance \* to the Government. They complained in their own names as individual creditors, and as delegates from a large proportion of the claimants, against the proceedings which, during the examinations of the witnesses against Reddy Row and Anundah Row, the law officers, under the instructions of the Government, had commenced against two of those witnesses. They submitted with great humility, "whether such proceedings might not tend entirely to discourage natives from coming forward to question any claims, however unfounded." They also

\* Papers printed for the House of Commons, 3. Carnatic Debts, No. 1. p. 2. This letter is dated Fort St. George, P. Ansult, 26 August, 1808, and signed by B. Roebuck, mortgagee and assignee of James Dighton, and administrator to R. Bronnelly's Estates, Thos. Parry, and Wm. Abbott.

suggested, certainly not without foundation, apprehensions, " that when it should be generally known that Reddy Row, although bound over to take his trial for a most atrocious fraud, was notwithstanding supported by the Government; and that the law officers had been directed to prosecute the witnesses that appeared against him; the evidence of native witnesses, who were easily intimidated by the authority of persons in high situations, would be wholly suppressed." To this rational and temperate remonstrance, an answer is returned wholly evasive of it; yet it will be worthy of reference,\* because it unconsciously, though distinctly admits, that Sir George Barlow had no right to intermeddle with the dispute concerning the Carnatic debts, and refers the complainants to the controlling authority over the proceedings of the commissioners, vested in the Supreme Government.

\* Papers printed for the House of Commons, 3. Carnatic Debts, No. 1. p. 5. Fort St. George, P. Consult. 16th Sept. 1808.

The prosecutors, in reply to this letter, endeavoured to recall the attention of Sir George Barlow to the real purport of their remonstrance. They stated, that a prosecution had been commenced against two witnesses who had given information before the sitting magistrate, on which two persons had been bound over to take their trial for forgery. They stated their apprehensions that the Government had been *inadvertently led* into that proceeding, from which they foresaw consequences injurious to the interests of the fair creditor, as well (adverting to the reversionary interest of the Company in the unappropriated surplus of the Carnatic fund) as of the East India Company. They then requested a copy of the observations that had been made on their former letter by the Advocate-General, "as they had some reason for believing that the report of the Advocate-General is not free from inaccuracies and misrepresentations." They then advert, but in language

\* Ibid. 4th October, 1808. This was signed by Mr. Roebuck, Mr. Parry, and Mr. Abbott, as individual creditors.

mild and inoffensive, to the situation in which the Advocate-General was placed as a creditor of the Carnatic ; suggesting it as a reason for considering him "not altogether a fit person to give " an opinion on any matter in which the interests of the creditors in general are concerned ; " that Mr. Anstruther could not be a creditor in " his own right, but as a speculator ; that it " was known, that many of the purchases in " which he was concerned, had been made " through Reddy Row or his recommendation ; " and that it might be therefore fairly inferred, " that he felt more than common interest in the " prosecutions which were then depending." This letter they signed as individual creditors, their delegation having been the topic of some cavil in the Governor's letter.

What advocate of Sir George Barlow will deny this remonstrance to be judicious and reasonable ? Happy had it been for him, had he lent a favourable ear to its salutary warning, when he might still have receded from measures, into which he was misled by that mercenary advice, which he seems at one time to have followed

with the most indolent acquiescence, and at another to have supported with the most distempered passion.

Viewing the conduct of the creditors who had preferred this appeal, through the medium of these feelings, he sent them a letter,\* the arrogant and unfeeling complexion of which well harmonizes with the general colour of his administration. After reproving them in a phrase and manner which resemble rather the rebuke of an angry pedagogue, than the official language of a great government, “ for calling in question “ the propriety of his orders,” he proceeds to scold them pretty roundly “ for presuming to “ discuss the proceedings of the Government.” Their application for the copy of Mr. Anstruther’s observations, he considered “ as an aggravation of their disrespectful conduct.” This singular piece, which for stiffness of phraseology, and lofty arrogance of tone, has scarcely a parallel in the records of despotism, certainly

\* Papers for the House of Commons. Carnatic Debts, 3. No. 1. p. 5. Fort St. George, Consult. 4th October, 1808.

not in the official writings of one British subject to another, concludes with apprising them, " that any farther acts of wanton obstruction to these proceedings, or of disrespect to the authority of the Government, will not fail to experience the severest effects of public displeasure."

What were the acts of wanton obstruction to the commissioners, or of disrespect to the Government, that called down these denunciations? Many gentlemen of the Company's service, merchants, and other individuals, having advanced money to the Nabobs, their fortunes, and the fate of their families became involved in the indemnification, slowly indeed, but at last conceded to them. That indemnification had been placed by law out of the reach of the local Governor; and a board, wholly independent of his authority, appointed to determine on its distribution. Through a misconception of his powers, informations were laid before him, imputing to one of the claimants frauds and forgeries. With an equal misconception of his powers, Sir George Barlow, at the suggestion of his law officers,

(themselves participants in the disputed claims,) appointed a committee to enquire into the transaction. This extraordinary court of *gyer and terminer*, at which those very law officers sat in judgment, of course acquitted Reddy Row; and, by a strange alternation of character, he was afterwards placed in a situation of great influence at the board, by which his own claims, tainted as they were with fraud, were to be decided.

A claim, preferred indeed in his own name, but of which the principal share had passed by sale to Mr. Anstruther, was brought into question, but supported by the commissioners, though impeached by evidence of forgery. A native claimant, with three English creditors, who acted under a delegated trust as well as in protection of their own property, instituted criminal proceedings. During the preliminary examinations before the magistrate,\* the law officers, acting under the orders of Sir George Barlow, commenced a counter-prosecution against two

of the witnesses, who were in the very act of giving their depositions. The creditors with humility, complained of, the measures to which the Governor had been advised to lend the sanction of his name and authority, suggesting, though in guarded terms, that he must have been induced to interfere in the proceedings then depending by the law officers, whose participation in Reddy Row's claims had naturally interested them in his support.

Such is the genealogy of the *faction*, to which, by an inverted use of the word, the proceedings in the Supreme Court have been wickedly attributed. As far as we have hitherto proceeded, the existence of such a combination is at least doubtful. Descending lower into transactions which must sound so harshly to ears that are organized to the chaste tones of equity and justice, probably some ground will be furnished for retaliating, and probably, by the solemnities of legal proceeding, the charge of combination, in which the Madras Governor has attempted to involve prosecutors, counsel, witnesses, juries ; all who preferred their duty to his inclination, or

breathed a sentiment or expression at variance with his own; if that indeed is a combination, of which the end was to obstruct the course of public justice, by intimidating witnesses and menacing prosecutors; and if he can be said to be the author or abettor of a combination, who has abused the trusts of his appointment, by throwing the weight of his authority and the sword of his office into a question of private property in which he had no concern, and of criminal judicature which he was bound to respect.

Nor was it by inadvertency that Sir George Barlow滑ed into this deviation from his province. It was opposed by Mr. Petrie,\* an old

\* Mr. Petrie, in a minute of the 30th December, 1808, mildly remonstrated against the further support of Reddy Row. Papers printed for the House of Commons, 3. Carnatic Debts, No. 10, p. 239. In the minute which he recorded in reply to that of Sir George Barlow, dated the 8th September, 1809, Papers 2. p. 9. No. 3, he says, "It should have been the same to us, whether the frauds and forgeries were detected by the talents of Mr. Marsh, or by the labours of the Company's counsel and the commissioners. The subject of the trials was a struggle and contest, not only for the division of property, but, in the course of the proceedings, questions were brought into

servant of the Company, recent from the chair in which, by their appointment, he had lately presided ; and whose experience gave the gravest authority to his judgment on all matters that concerned the usage of the service, or the interests of his employers. But the party of Reddy Row, in other words the participants in his claims, had the undivided empire of the Governor. On the other hand, the creditors who were struggling in defence of their property, had incurred his displeasure for merely supplicating his forbearance, and entreating him to let them alone.

“ discussion in which, in my opinion, Government ought to “ have remained perfectly neuter.”

Mr. Oakes and Mr. Casamajor it is said supported these measures. But, by the constitution of the local Government, that support is not necessary ; for the President may take upon himself the responsibility of his own acts. The only check formerly exercised by the council, was the privilege of recording their dissent in minutes ; a check now annihilated by the removal of Mr. Petrie, for having, though in pursuance of repeated orders from the Directors, entered minutes of dissent against the measures of Sir George Barlow.

This conduct of Sir George Barlow ~~might~~ almost be attributed to gratuitous folly, were there not in general some sophistry that half wins over the understanding of weak men, when they depart widely from common sense and rectitude; some confused twilight notions of right with which they grope their way, till they find themselves entangled in connections they despise, and jobs of which they are ashamed. Probably he was misled by some absurd notion, artfully instilled into him by his interested advisers, of its being within the lawful competence of his powers to aid the commissioners in the execution of their duty; whereas it was obvious that their powers, being wholly created by the legislature, could, if defective, be supplied only by a legislative amendment. Their powers could not be aided by the obstruction of justice. But the violence with which he followed up his error, is irreconcileable even to those excuses which acquit him of crime at the expence of his intellect. It could only proceed from that pride, which is ashamed to sneak humbly from the

difficulty into which it arrogantly strutted, while it denotes the absence of the generous courage, which at once owns and repairs its injustice.

Sir George Barlow having thus identified his Government with the protection of Reddy Row, the sensations it excited through the whole range of social life, irritated his temper without diverting him from his purpose. Orders were given to the law officers to defend Reddy Row, and it was studiously given out, as it afterwards happened, that he was to be indemnified for the charges of his defence out of the fund which had been appropriated to the payment of the creditors.

Mr. Roebuck had hitherto appeared as a prosecutor. Inferring from the tone and language of the letter in which the Government had denounced their displeasure “on any further acts “of disrespect to their authority,” that his further activity in the prosecution would fall within the reach of that denunciation, he retired from it altogether; though a claimant by his former mercantile connection with the house of Abbott

and Co. to a considerable amount. Happy had this forbearance disarmed by the bitter, unrelenting persecution, which, in a few months afterwards, hunted him to his grave.

Faithful to their cause, the commissioners re-

\* Mr. Petrie, one of the Members of Council, in his minute in reply to Sir George Barlow, thus notices this procedure. "I regret that it has been found necessary by the Hon. the President to bring into his list of accusations against me the name of the late Mr. Roebuck, who has sunk under his misfortunes with circumstances of peculiar distress to his family, and whose death has been sincerely deplored by all who knew him, and justly appreciated his merits." Mr. Petrie's minute, 8th September, 1809. See also Mrs. Roebuck's affecting letter to the Court of Directors. Papers for the House of Commons, 3. Carnatic Debts, No. 16, p. 388. The severities unjustly inflicted on this gentleman, for taking steps to protect his property from depredation, and bringing to justice a man whose guilt is now acknowledged even by the Governor of Madras himself, reduced him by one blow from affluence to penury. If Sir George Barlow should ever revisit his native country, this abuse of power it is hoped will be brought before a British jury. It was charged in one of the counts of the information against Mr. Holland, who absconded, that as Governor of Madras, he removed a civil servant, Mr. D. Halyburton, from a place of emolument, unjustly and under colour of his authority. That information was drawn under the advice of the first lawyer in Westminster Hall.

fused to deliver to the attorney for the prosecution, the documents which were required from their office as a part of the evidence by which the charge was to be substantiated. It was necessary to make a formal application to the court, which was of course resisted by the law officers of the Company. Nor were they produced till they were ordered to be given up by the court, after the conduct of the commissioners had been stigmatized by one of the judges as an indecent and scandalous obstruction of public justice.

The sessions of Oyer and Terminer commenced on the 10th of October, 1809. A grand jury, not one of whom had any interest, however remote, in the claims on the Carnatic, and of whom fifteen were in the civil service of the Company, had been summoned.

We have seen an attempt to obstruct the prosecution, by the adoption of a criminal proceeding against two of the witnesses. These persons (Arnachella Row and Beemah Row) were indicted for perjury assigned on one or two immaterial variations in the evidence they gave

by the strong presumption that it was not a pre-concerted or fabricated story. It became, therefore, of great moment to Reddy Row and his coadjutors, to discredit these persons, either by the obvious presumption resulting from an indictment for perjury, or by the incompetency of an actual conviction. Had this project, so happily conceived, been as happily executed, it may be easily supposed by those who know the yielding and timid qualities of the Hindoo character, that it would have most effectually intimidated other witnesses from appearing against them. The appearance of the supreme executive power also on the side of Reddy Row, would have naturally aggravated the alarm. In subservience to this plan, they hastened before the grand jury, which assembled on the 10th of October, 1809, with their indictment against these witnesses. It was thrown out: and the indictment against Reddy Row and Anundah Row, against which all this elaborate machinery

fused to deliver to the attorney for the prosecution, the documents which were required from their office as a part of the evidence by which the charge was to be substantiated. It was necessary to make a formal application to the court, which was of course resisted by the law officers of the Company. Nor were they produced till they were ordered to be given up by the court, after the conduct of the commissioners had been stigmatized by one of the judges as an indecent and scandalous obstruction of public justice.

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before the commissioners; variations which, far from discrediting their testimony, aided it by the strong presumption that it was not a pre-concerted or fabricated story. It became, therefore, of great moment to Reddy Row and his coadjutors, to discredit these persons, either by the obvious presumption resulting from an indictment for perjury, or by the incompetency of an actual conviction. Had this project, so happily conceived, been as happily executed, it may be easily supposed by those who know the yielding and timid qualities of the Hindoo character, that it would have most effectually intimidated other witnesses from appearing against them. The appearance of the supreme executive power also on the side of Reddy Row, would have naturally aggravated the alarm. In subservience to this plan, they hastened before the grand jury, which assembled on the 10th of October, 1809, with their indictment against these witnesses. It was thrown out: and the indictment against Reddy Row and Anundah Row, against which all this elaborate machinery

of plot and intrigue had been ineffectually set at work, returned a true bill.\*

The sessions were adjourned for fifteen days by the chief justice. Much clamour has been excited by that fact. The court at that time consisted of Sir Thomas Strange, Sir Henry Guillim, and Sir Benjamin Sulivan. Of the two last, Sir Benjamin Sulivan being himself a creditor, had, with an honourable delicacy, declared

\* I insert the names of the Grand Jury.

Andrew Scott, Esq. Chief Justice of the Sudder ul Daulet Court, Foreman.

J. H. D. Ogilvie, Esq. Collector of Madras.

F. A. Grant, Esq. out of employ.

W. Thackery, Esq. Board of Revenue.

G. Strachey, Esq. Judge and Magistrate.

J. H. Peile, Esq. Military Secretary.

J. Dacre, Esq. Sub-Collector, Chittoor.

J. Munro, Esq. Ditto.

C. Wynox, Esq. Board of Trade.

A. Brooke, Esq.

J. Taylor, Esq. Storekeeper, Fort St. George.

G. Moore, Esq. Deputy-Accomptant-General.

W. Wayte, Esq. Board of Revenue.

J. Babington, Esq. Secretary's Office.

F. H. Bruce, Esq. Ditto.

George Hay, Esq. Free Merchant.

his intention of withdrawing from the bench during the trials that arose out of claims on the Carnatic fund, and Sir Henry Guillim had taken his passage by the fleet which was expected to sail in a few weeks for England. The ground on which this unprecedented adjournment took place, was the impending dispatch of the ships; certainly an inadequate reason for the postponement of a gaol-delivery, of which the periods had been fixed by the rules of the court and the consent of the three judges. It gave birth to a suspicion, for which, however erroneous, it would have been better to have afforded no pretext, that the adjournment was ordered in compliance with the inclinations of the Government, who were unwilling that Sir Henry Guillim should sit at the trials, whose manly and elevated independence in his judicial character had rendered his high function venerable in the eyes of every member of the community, native or European. This suspicion, wild and unfounded as it was, derived some strength from the spirit of intrigue which governed the councils of Fort St. George on this

subject, and from the probability furnished by the character of that judge, that the shameless and abandoned attempt to influence by the civil authority the solemn offices of British justice, would not have escaped the animadversion it deserved. Nor is the matter less to be regretted, since it would have permitted the chief justice, whose near connexion and intimate habits with Mr. Anstruther might have insensibly given his feelings some leaning and direction on a question materially affecting the reputation and fortunes of his friend, to have obeyed the honourable impulse of his dispositions, by taking no share in its adjudication.

On the 10th of November, however, the trial of Reddy Row and Apundah Row came on before the Chief Justice and a common jury

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\* Every person acquainted with the Court of Justice at Madras, will bear testimony to the respectability of the common juries. There are not on the records of the court three criminal cases, in which special juries have been moved for; a fact decisively presumptive in favor of their general character. Concerning the jury who tried Reddy Row, the language of Sir George Barlow has been grossly calumnious. The following insinuation comes from the pen of Mr.

of great respectability. They had received the thanks of the court for their verdict in a preceding case, in which, with exemplary

Buchan, the missionary of Sir George, and marks with what unfeeling severity and contempt these persons speak of the most efficient organ of British justice, when it does not act in unison with their own inclinations and intrigues. "The petty jury which had been impanelled for the trial of Reddy Row, was composed in general of the lowest description of European population; some of them appeared in court more than once in a degrading state of drunkenness." I here subjoin the list of the jury, with a slight notice of their characters and stations; and undertake to assert that the libellous attack of the author of the Narrative, facetiously styled "Authentic," is as destitute of truth, as it is of probability.

**Mr. Richard Griffiths, Foreman.** The principal of the opulent house of Griffiths, Wheeler, and Co., a man of excellent character.

**John Willins, Son of a respectable clergyman;** honest and well informed; a shopkeeper.

**William Kiting,** A man formerly in the employ of Hope and Co., of unimpeached character.

**Samuel Moore,** Clerk in the secret and political department of Government — a confidential employ.

**George Edward Askins,** Head clerk in the military paymaster's office; a well-informed man.

**William Ross,** Carpenter and joiner, of good character, and an excellent juror, having frequently discharged that duty.

patience and discernment, they had pursued a foul and artful conspiracy against the life of a human being to detection, through a labyrinth of perjury and falsehood. This was the case of one Hawley, a private in an European regiment stationed at Masulipatam, who was tried for the murder of a sergeant of the company to which he belonged. Two witnesses, a woman and a soldier of the regiment, positively swore that they were present, and saw Hawley give the mortal blow to the deceased. Their evidence was minutely circumstantial. But some circumstances were extorted in a long cross-examination of the witnesses for the crown, which not only shook their testimony,

**Mr. Gilbert Laird**, A respectable shopkeeper in the Fort, and established in business by the late General Sydenham.

**Henry Wright**, Captain of a country vessel, much respected.

**Thomas Cole Dampney**, Carpenter, sober and quiet.  
**Henry Branson**, rather dissipated, but honest.

**James Allen**, Partner in the respectable firm of Gordon and Co., jewellers.

**Robert Morrison**, Cabinet maker, Mount Road; highly respectable.

but established a suspicion, amounting to an inference, that they had themselves committed the very murder, which they had conspired by their evidence to fix on Hawley. The jury having lent a laborious attention to the case, acquitted the prisoner. The magistrates present at the trial, who had heard the suspicious circumstances which had appeared against the witnesses, immediately issued a warrant against them. They were afterwards tried by another jury, and found guilty to the satisfaction of the Chief Justice himself, who, in passing sentence upon them, gave the former jury, who had acquitted Hawley, the strongest commendations for the vigilance with which they had discharged their duty, and the discrimination with which they had unravelled this most atrocious conspiracy.

Let it not be forgotten, that this jury, so commended, while the praises of the Court were yet ringing in their ears, served on the trial of Reddy Row and Anundah Row. On the 10th of November that trial began. The indictment charged them with a conspiracy to defraud the

creditors of the Nabobs, and to obtain money from the fund set apart for their payment, under colour and pretence of a bond, purporting to have been executed by the Nabob Omdut ul Omrah in favour of Gopaul Row, dated the 26th of July, 1798, for 38,500 pagodas; that Reddy Row, under pretence that the bond had been assigned to him by Gopaul Row, executed the deed of agreement between the Company and the creditors, and preferred his claim for the amount of the bond before the commissioners; and that in pursuance of the same conspiracy, Reddy Row and Anuudah Row had actually forged, or caused to be forged, the bond on which the claim had been preferred.\*

To support this prosecution, it became necessary to negative by circumstantial evidence the claim; to shew the pretences on which it had been preferred before the commissioners to have been false and fraudulent; and then to prove the actual forgery and manufacture of the

\* Papers printed for the House of Commons, 3. Carnatic Debts, p. 168. Appendix A.

bond by Anundah Row, in the presence of Reddy Row, two years after the death of the Nabob by whom it was pretended to have been granted. This order of proof was recommended by the counsel for the prosecution, as the best calculated to lead by a direct process to a satisfactory conclusion; because, if the jury were satisfied that the claim had its foundation in fraud, the positive evidence of the two witnesses, by whom the actual forgery was proved, would receive a degree of confirmation sufficient to destroy the weight of the objections to which it was liable. For those witnesses, though from the relation in which they stood to Reddy Row, and the peculiar and characteristic modes of thinking incident to the relation of master and servant amongst the natives of India, they could scarcely be deemed accomplices, were notwithstanding the silent and acquiescing witnesses of the transaction. It was obvious, however, on the other hand, that if by a compact and solid body of circumstances, the falsehood and fraud of the bond should be established, the positive evidence

of its actual forgery would be then placed out of the reach of exception.

Nor was this weight of circumstances wanting. A stronger combination of facts hanging together by an almost miraculous contexture, and mutually elucidating and strengthening each other, never appeared in a court of criminal law. The presumptions thus irresistibly arising from circumstances, were afterwards confirmed by the proof of the *res gesta*, the actual fabrication of the bond by one of the prisoners, at the instance of, and in concurrence with Reddy Row.

The money alledged to be due on the bond, was claimed as having been advanced to the Nabob in 1797. The accounts of the Durbar as to monies paid or received, were well known to have been kept with the most punctilious accuracy. No mention of the receipt of those sums was found in the proper entries, which may be called the cash accounts, though they recorded items of the utmost insignificance. But the transaction, though no trace of it was found in those

entries, found its way into another set of entries, called the Daskerdon dufters, which were only transcripts from the cash accounts. Its appearance, therefore, in the Daskerdon dufters, necessarily presumed an antecedent entry in the cash accounts. It was therefore in the apparent contemplation of those who effected the insertion of it, that if it appeared in any of the Durbar accounts, it would lull all suspicion to sleep, and satisfy those who were not minutely acquainted with the forms of recording pecuniary transactions at the Durbar; or, that if it appeared in one account, it would be inferred without further investigation that it was also recorded in the other. It was, however, a genuine entry or an interpolation. If genuine, it must have been made in the life time of the Omdut. A person named \*Tremal Row, the head sherestadar, proved that he must have made the entry, had it been a real transaction. It appeared that he knew nothing about it; that he had made no entry concerning it; but that it had been entered by an order or *saral* of the present Nabob, obtained by Reddy Row for

that purpose, three years after the date of the supposed entry.

But the non-appearance of the transaction in the proper entries, when objected against the claim before the commissioners, was met by an allegation, that the cash accounts, for the month in 1797 when the money was paid, could not be found. But Reddy Row had sworn before the commissioners, that the money had been advanced in 1797 ; and that the bond was not given till the following year, 1798, when a balance of principal and interest was struck, and the sum of 291 pagodas actually paid back. Allowing, therefore, that the entry when the money was lent in 1797 had been regularly made in the proper accounts, and that the loss of the accounts of that month rendered it impossible to prove its entry ; yet it is observable, that Reddy Row's pretence brought forward a distinct cash transaction in the following year, 1798, when the balance was struck, and a sum returned, that ought to have appeared in the cash accounts of that year, which were complete, and in actual existence. In the accounts of that year no such

transaction was to be found; though the witnesses who kept those entries swore, that if the balance had been struck, and the 291 pagodas paid back, it must have been entered, and that the omission of it was wholly inconsistent with its reality.

It was further pretended by Reddy Row, in support of his claim, that the bond, on the day of its date, had been drawn by order of the Om-dut by the other prisoner, Anundah Row, who, it was also pretended, was then in the employ of the Nabob at the Durbar. To negative this pretence, which raised a most important issue at the trial, it was proved that Anundah Row, at the time of the alleged execution of the bond, was not at the Durbar; that he had never been in any employment there at all; but that for the space of three years, from 1797 to May 1800, he was a resident in the districts of Chillamburin and Managoordy, places too far from Madras to admit even the possibility of a cotemporary employ at the Durbar. He could not therefore have been the writer of the bond in 1798. His residence, his employments, and his movements were distinctly traced during

that interval, till his arrival at Madras in November 1799, when he was taken into the service of Mr. Barrett, the secretary of the Nabob. It was also distinctly proved, that not holding any office in the Durbar, he could not, conformably to its customs, have been the writer of the bond. Nineteen witnesses proved these important circumstances.

Reddy Row, pressed by these objections taken to his claim before the commissioners, attempted to colour it by another pretence. He stated it to have arisen out of a loan in 1797 to Anwar Ally Kawn, who was a renter of Arcot. This pretence was proved at the trial to be equally unsubstantial. It appeared that Anwar Ally Kawn was only fifty-seven days in the collection of the district, when he was suddenly turned out by the arbitrary order of the Omdut, and succeeded by Hussum ul Mulk his brother, who took possession of the accounts for the whole year including those of his predecessor and his own. The accounts purporting to be Anwar Ally Kawn's, to which Reddy Row referred for proof of the loan pretended to have been made

to the Nabob, must therefore have been forged to meet the exigency of the case ; and the prosecutors offered to prove the falsehood of the pretence, by the production of the only *authentic accounts* of Anwar Ally Kawn's rentership, namely, those which had been taken by Hussum ul Mulk at the end of the year. This devolution of the running accounts of Anwar Ally Kawn on his successor, was proved by Syed Mootaza Kawn, the very person whom Hussum ul Mulk had sent to take possession of those of his predecessor. The production, therefore, of the accounts of Hussum ul Mulk for the whole year, comprehending the broken period of his predecessor's rentership, would have decisively shewn the falsehood of the pretended advance to Anwar Ally Kawn.

It is now a matter of conjecture merely, on what grounds the proffered production of those accounts in evidence was refused by the court. No reason was assigned for it. It was ruled summarily, and without the shew or semblance of reason or precedent. But it was strenuously argued by the counsel for the prosecution,

that on every maxim, and by every analogy acted on 'in the daily proceedings of criminal courts, the rejected evidence was not only admissible, but necessary in all similar questions of fraud. The defendants were indicted for a conspiracy to cheat, by means of a pretended claim on the Carnatic fund.' It was, therefore, in the direct process of the inquiry, to negative the pretences. Amongst these pretences, Reddy Row had produced before the commissioners a paper, purporting to be the accounts of Anwar Ally Kawn, in which it appeared that the sum had been advanced to that person for the use of the Nabob. Anwar Ally Kawn was dead. To negative this pretence, therefore, it was necessary to produce the *real* accounts of Hussum ul Mulk, which, containing all the pecuniary transactions of Anwar Ally Kawn during his short rentership, must, if authentic, have contained also the transaction in question. These documents were offered to be proved by the two shrestadars, or accountants, of Hussum ul Mulk, who were further prepared to prove, that the pretended advance could

not possibly have been made to Anwar Ally Kawn.

Happily, however, the cause did not require the aid of this testimony. The guilt of the prisoners was established by other circumstances, equally as clear and demonstrative. It was proved, that just after the decease of the Omdut, in the presence of several of the Durbar servants, Reddy Row preferred a kind of verbal petition to the present Nabob, imploring his assistance to recover the balance due to him from the late Nabob, from whom he had not been able to obtain any bond, or other written voucher. Tremal Row, a Durbar servant, expressed his surprize, that a man so conversant in those transactions, should not have been sufficiently provident to have procured the settlement of his accounts with the Durbar, and to have procured bonds or teeps for the balance due to him.

Nor was this all. It further appeared from the evidence of Mr. Brodie, the Register of the Carnatic debts, that shortly after the death of the Nabob, when that gentleman was employed in forwarding claims to Mr. Fordyce, who had

been appointed the agent in England for the creditors, Reddy Row stated to him, that his whole claim amounted to 87,000 pagodas, on an open account; that Mr. Brodie particularly interrogated him whether he had no bonds to transinit to England, and that Reddy Row's reply was, that his entire claim was on 'an *open account*'. This was in the beginning of the year 1801.

Another remarkable piece of evidence was adduced, which strongly corroborated these circumstances. It seems, that after the Nabob's death, several persons who had lent sums of money to Reddy Row became clamorous for payment. One person, Venaigum Moodelliar, sued out a process against him. Reddy Row for two years absconded from the process. While he was actually confining himself to his house, a respectable native, Chinniah Moodelliar, visited him; and after some conversation concerning his embarrassments, offered to mediate with his creditors; and to effectuate that negociation, particularly asked him whether he had no Nabob's bonds, which he could offer as a security to Venaigum. Reddy Row's answer

was, that he had not been able to *procure one bond from the Nabob*. This was circumstantially proved by Chinnaiah Moodelliar.

But although Reddy Row had no bonds in 1801, he does not appear destitute of them in 1803. Having, however, told Mr. Brodie in 1801 that he had none, in 1803 he applied to Mr. Davies to transmit them to England; abandoning the agent to whom he had applied on the former occasion, and forwarding his claims through another person. This circumstance, minute as it appears, was a very material one. Had he applied to Mr. Brodie to send home his bonds, that gentleman must have recollected his former communication, that he had none to transmit. It was obviously to evade this contradiction, that he applied to Mr. Davies.

Where shall we find such a variety of circumstances concurring in the establishment of one fact? First, the falsehood of the pretended accounts of Anwar Ally Kawn; secondly, the physical impossibility of Anundah Row's having written the bond as Reddy Row pretended, in 1798; thirdly, the omission of the consideration

of the pretended bond in the only entries where the transaction could have appeared; fourthly, the declaration after the death of the Nabob, that the prisoner had obtained no bond whatsoever; fifthly, his declaration to Mr. Brodie; and sixthly, his declaration to Chinniah to the same effect. It is obvious, that any of these circumstances, which hung together by an almost miraculous coherence, would have singly demonstrated the claim of Reddy Row to have been built on false pretences. And when to this circumstantial evidence, the positive testimony of the actual forgery of the bond is added, no human understanding can withhold its belief in the guilt of Sir George Barlow's favorites.

The two witnesses who swore to this fact were Arnachella Row and Beemah Row, who were confidential servants of Reddy Row, and of the same caste. They swore, that some time in 1803, at Reddy Row's house, the prisoner Reddy Row took from his writing-box a blank paper, to which a seal of the Nabob's had been affixed, and directed Anundah Row to fill it up, by drawing a bond in favor of Gopaul Row for

38,500 pagodas ; that Anundah Row immediately wrote the bond, subscribed it with the signature called the byze of the Nabob, which is a mere mark, and of easy imitation, and returned it to Reddy Row.

Had this testimony stood alone, it might have been liable to some observation ; but, added to the other evidence, it was rather a redundant, than a requisite proof. Of the falsehood of the claim there could remain no doubt. If the claim was false, the bond was of course a fabrication, whether the actual forgery of it had been proved or not. It was attempted to invalidate their evidence, by the fact of their having been prosecuted by Sir George Barlow, although the bill had been thrown out by the grand jury : an attempt which clearly shewed the object of that scandalous and indecent procedure.

To this case, what was the reply ? Several papers were adduced from the dusters in support of the claim. It appeared that those dusters were not regular books of accounts, but loose pieces of paper tied together in bundles ; that to those dusters Reddy Row had constant access ;

and that the keys of them were kept by the native servants of the commissioners. \*

The decisive fact of Anundah Row's absence, was not clearly contradicted by one native witness. The impression produced by that fact was felt by all who were present at the trial. At last, however, a witness of the name of Battley was called, who had sat in court and assisted the law officers during the trial; the person who was afterwards convicted of perjury assigned on the very evidence he gave on this occasion,

\* With regard to the attempt to prove the pecuniary transactions between Gopaul Row and the Durbar, by means of copies of receipts from the house of Latour & Co. which Reddy Row produced from the dusters, and by the production of the books of Latour & Co. in evidence, as a gentleman who was a partner in the house at the time of the pretended transaction was still at Madras, and not called upon to prove it, it appeared to be so weak a defence, that the Chief Justice did not even notice it in his summing up; and it is something remarkable, that Mr. George Arbuthnot, a partner in the late house of Latour & Co. who was examined before the commissioners in support of the claim, should not have been called as a witness upon the trial, because, if his testimony went at all to the support of the claim upon the former occasion, it would have equally benefited the defence upon the latter.

and on a subsequent indictment found guilty of a cheat and conspiracy with Reddy Row. It was a bold experiment to cure the infirmities of their cause by this man's testimony. At the close of the proceedings on the Saturday night, it was understood that the law officers had finished their case. On the Sunday, a consultation took place at Mr. Austruther's chambers, at which Batley was present, and on the Monday following he swore, in contradiction to fourteen witnesses, that Anundah Row was in the service of the Durbar at the time in question.

The defence being closed, on the 28th of November the Chief Justice adjourned the court till the 30th, in order that he might have time to arrange his notes for the summing up of the evidence. On the 30th, it was adjourned to the 2d of December; when it was again adjourned to the 5th; from that day to the 7th; and once more to the 9th. The summing up took the Chief Justice seven hours. Some extraordinary doctrines respecting the law of evidence were delivered in the course of this address. Amongst others, that the dusters of the Durbar, though

mere bundles of loose papers about fifteen inches long and four wide, easily susceptible of interpolation, and kept in no custody whatsoever, proved themselves, without imposing on the parties who produced them the necessity of giving any account of the place whence they had them, or the custody in which they had been kept; in other words, that slips of paper, disconnected with each other, proved themselves as deeds of thirty years standing! On another point, the fancy of the Chief Justice winged a still higher flight. For he gravely told the jury, that “ the commissioners had the exclusive cognizance of all matters connected with the claims which they were investigating; that his Majesty’s court of judicature was not competent to try any question involving the forgery of a bond, which those commissioners had pronounced to be authentic; but that whatever the verdict of the jury might be, the commissioners ought to recommend the bond to the commissioners in England, if they in their judgment deemed it to be genuine!”

There is in some reasonings so providential a

mixture of absurdity, that the evil of the doctrine finds its remedy in the extravagance of the proposition. The jurisdiction of the commissioners was merely that of arbiters, with powers limited to the subject matter of their arbitration. They could decide only on the claim. They could not try the fraud. But a criminal judicature would be worse than useless, if it was impotent to one of the first purposes of its institution, that of protecting the community from wrong and depredation.

Another prominent topic in the summing up of the learned judge, was the credence due to the evidence of Mr. Batley. It is true, that no faith could have been had in this man, which did not

\* When this doctrine, in a subsequent stage of the proceedings, was commented on by the late Sir Benjamin Sullivan, one of the judges of the court, he was interrupted by the Chief Justice, who expressly disavowed it. This was a most singular circumstance. The words had been taken down by one of the counsel, as well as by the short-hand writer, and nearly forty persons who were present concurred in their recollection of the fact. The doctrine was too remarkable not to have made an impression on the memories of all who were present.

immediately blot out the testimony of eighteen native witnesses, as so much perjury or delusion. In what moral or metaphysical scales Batley's evidence was weighed, that it should acquire this unnatural preponderance, the mind of man cannot conjecture. The jury, however, did not concur in the reasonings of the judge, and found a verdict of guilty. It will be controverted by no man who is not ignorant of the legitimate duties and recognized rights of jurors, that whatever might be the opinions of the judge as to the credit of the witnesses, they alone were competent to decide on which side the balance preponderated. "To say the truth," says a great authority, "it were the 'most unhappy case that could be to the judge, ' if he at his peril were to take upon him the guilt 'or innocence of the prisoners; and if the judge's 'opinion must rule the matter of facts, the trial 'by jury would be useless."\* It must be admitted, that no question of law had arisen.

It may now be pertinently asked, of what crime were the prosecutors of these indictments

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\* 2 Hale's Pleas of the Crown, 312.

guilty? For punishment, in the natural order of reasoning, pre-supposes guilt. It is a fact now on record, that Mr. Roebuck, Mr. Maitland, and Mr. Parry were punished, and with great severity, by Sir George Barlow, for the bare offence of having carried on this and other prosecutions. Let not this prominent feature of his administration be forgotten. Half the virtues of his character, and half the merits of his policy, will be excluded from our estimate, if this matter is torpidly considered, or hastily discussed.

This verdict might have been a profitable lesson. Minds rightly attempered to justice, would have acquiesced in the solemn ordinance of British law, and if pride or policy forbade an acknowledgment of the error, would at least have hesitated, before they incurred the guilt of wilfully renewing it. Had Sir George Barlow put away from him the sordid and mercenary advisers, who had thus prostituted his authority to the intrigues of their own avarice, and entangled the public government in the petty plots of private interest; had he adopted the enlarged system

pressed upon him by Mr. Petrie, and left the creditors to fight their battles, and the justice of the country to pronounce its decisions without molestation, he would have escaped a greater part of the hate and animosity, for which he appears now only the obtrusive and wanton candidate.

It is natural, however, that he should have derived some solace from the conduct of the Judge who presided at these trials. On that conduct, I abstain from all animadversion. I will relate facts. Nor on the other hand will I sacrifice truth to a dissembled forbearance, or an affected respect for the man which the heart cannot own, and justice cannot sanction.

During the trial, the Chief Justice had long consultations with Sir George Barlow concerning them. To the opinion of Sir George Barlow as to the innocence of Reddy Row, he paid the readiest deference. To the expediency of deterring the prosecutors from the further pursuit of justice, by some marked and striking visitation of the Governor's displeasure, he gave his most cordial assent. The politic fraternity

of Sir Elijah Impey and Mr. Hastings' was no longer a solitary instance in history. The adjournment of the Court for nine days after the evidence for the crown and the defence had been closed; was attributed to the indisposition of the Judge. Yet this indisposition, which dispersed for so long an interval the jury who had to decide on a momentous issue, did not prevent the Chief Justice from attending a public dinner given by General Macdouall on the 30th of November; nor from holding a long interview on the subject of the trials with Mr. Buchan, the secretary of Government, on Saturday the 3d of December.

These remarks are not unseasonable, since Sir George Barlow has had recourse in his justification to the opinions of the Judge, on the merits of these trials. But notwithstanding all the paraded impartiality ascribed to him, candid and judicious minds, examining his demeanour at a distance, and with feelings sobered by time and deliberation, will observe that he was beset with difficulties, with which it calls for no common effort of human virtue to struggle. The parti-

pation of Mr. Anstruther, his near relation, in the very bond which these prosecutions discredited; the total loss of reputation in which that gentleman would be involved, by a verdict which would expose the imprudence of the advice he had given to the Government; and probably the political results to be apprehended from the disgrace and discomfiture of that Government, if a verdict was given adverse to its wishes; all these might, and certainly did communicate an unperceived bias to his opinions. Some weight, however, must be deducted from these opinions, when it is recollected, that so far from receiving the concurrence of Sir Benjamin Sullivan, the other Judge of the Court, they were fully disavowed by that upright magistrate, after an attentive examination of the evidence.

But with whatever vehemence those opinions were pronounced, they cannot now be matters of very pleasing retrospect to the learned Judge. Subsequent events, which shall be narrated in their due order, have illustrated their fallacy. There is not a man in the settlement of Madras, who can now deny the guilt of the men who,

after successive verdicts against them, were still patronized by Sir George Barlow. Yet it cannot be too often reiterated, that for bringing these men to trial, three gentlemen were visited with severe punishment by the Governor of Madras.

Nor can too much praise be awarded to those gentlemen, for the firmness with which, in the pursuit of justice, they encountered the impediments of power. Some portion of it would also be due to their counsel, who despised equally the intimidations and the bribes with which they sought to deter or alienate him from his duty; and who, without any other interest or connection with the parties than that of a professional retainer, discharged his duty with effect, but with a moderation that called forth the approving comment of the Chief Justice himself, in his summing up to the jury.

The contradiction between the evidence of Batley and that of the numerous witnesses sworn for the crown, with several gross prevarications observable in his testimony, suggested the expe-

dency of indicting him for perjury. The bill which assigned the perjury on that part of his evidence in which he swore to the fact of Anundah Row's service at the Durbar, was found by the grand jury.

Another bill of indictment also was preferred and found against Batley and Reddy Row, for a cheat and conspiracy against Venaigum Moodiar, in persuading him to take, in satisfaction of a debt due to him from Reddy Row, a forged Nabob's bond, which Reddy Row produced to him, with a reference to Batley for a voucher of its being genuine, on which reference Batley declared that he knew it to be genuine, and urged Venaigum to accept it.

It is a memorable fact, that these villains, notwithstanding repeated applications for their commitment, and judgment against them, were suffered to be at large on their recognizances; as if it were necessary to shew by public example, that guilt and punishment, an association essential to the efficient administration of criminal law, might be disconnected in the persons of

criminals who were fortunate enough to have Sir George Barlow for their patron. I will venture to assert, (a long acquaintance with the natives of India enables me to assert it,) that nothing could have happened more calculated to bring the British law, and those intrusted with its execution, into contempt and suspicion. Whilst I write this, the remarks of many of the most intelligent amongst them are fresh in my memory. They mourned the prevalence of the civil authority, in a court which they had been taught heretofore to admire, as inaccessible to the intrigues of power. They exclaimed that it would be madness to expect an equal measure of justice, in suits to which the Government might become a party. Several natives, concerned in causes actually pending, to which the Company were parties, through a very obvious misconception identifying the Governor with the Company, withdrew them in mere terror of his displeasure. Nor were these sensations removed, when they observed English gentlemen severely suffering under the displeasure of Barlow, for the offence of prose-

cuting indictments in the King's court of justice.

Defeated and discomfited, the zeal of Sir George Barlow passed by a natural transition to fury and persecution. Threats were denounced against the prosecutors and the jurors. The whole was attributed to *faction*. In every stage of his troubles, Sir George Barlow has found in this word a powerful auxiliary. It was not neglected on this.

Apprehending from the spirit of these transactions, that the obloquy thrown by Sir George Barlow on the verdict, would be followed by misrepresentations and unfair reports of the trial, the prosecutors employed a person to take accurate notes of the proceedings. This precaution was not superfluous. They found that the law officers had sent in to the Government †

\* It may be here remarked, that they who imagine that the unpopularity of the Governor is confined to the European subjects of Madras, have made but an imperfect estimate of the feelings and opinions of the immense population of that settlement.

† This report, as it is mis-called, has found its way to

a false, mutilated, partial account of the *trial* ; suppressing evidence in some parts, in others inserting what was never sworn ; an unfaithful epitome in some respects, in others wholly a work of fiction. The prosecutors therefore resolved to publish the proceedings, and for that purpose sent an advertisement of the intended publication to the Madras gazette. The chief secretary, Mr. Buchan, to whom the public papers of the settlement are submitted before they are published, expunged the advertisement. This was the first instance in an English settlement, of an impediment interposed to the publication of the transactions of a British court, which are supposed to be open and public to the world. The printer appealed by a respectful application to the Government for leave to print the trial. It was peremptorily refused. A

England, and appears amongst the papers printed for the House of Commons, 3. Carnatic Debts, No. 7, p. 117. The whole is a scandalous imposition. The whole proceeding, in two octavo volumes, will be published from notes taken at the trial, and sworn to.

similar application was made by the counsel for the prosecution, which met with the same fate.

It was conceived that the Supreme Court was competent to order the publication of its own proceedings. A regular application was made to the Court by the counsel. The Chief Justice refused the leave, but condescended not to assign any reason for the refusal. Sir Benjamin Sullivan, the other Judge, granted his assent, and supported it by reasonings, which must be revered by every man who is not recreant to the institutions and laws of his country.

Adverting to the origin of the controlling pow-

\* I do not contend for the unlimited freedom of the press in India. But the capricious and arbitrary exercise of the discretion which controls it, is hateful and oppressive. It is a well-known fact, that Mr. Buchan, as the official licenser of the press, actually struck out several columns of a Madras paper, which had been copied from the London papers, containing an account of the impeachment of Lord Melville. Mr. Buchan claims some sort of relationship to that family. The printer appealed to Lord William Bentinck. That excellent and worthy man ordered the expunged passages to be restored and published.

er exercised over the press in India, that venerable magistrate observed, " That it was limited " to the newspapers, and never before extended " to the length to which it was now carried. In " the case of the King against Paupiah and " others, for a conspiracy against Mr. David " Halyburton, no such right was pretended to. " That trial was printed and published at Ma- " dras. No objection was made to it by Go- " vernment, though the Governor and Council " were then Judges of Oyer and Terminer, and " formed the Court before whom the defendants " were tried. They were not lawyers, and were " therefore liable to errors in judgment which " they might not have wished to have exposed " to the observation of the public, but no ob- " jection whatever was made." " All the trials " of consequence are printed in the public pa- " pers at Bengal and Bombay. Why object to " the publication of these? Are the characters " of these criminals, now convicts, like a lady's " fame, too sacred to be mentioned; or have the " public a less interest in the circumstances that " came out on their trials? Nothing of this kind

" could possibly be the cause of refusing the publication of the trial. We must therefore look to *something else*."

The *something else* alluded to by this venerable magistrate, the Governor and the Chief Justice have enabled us to conjecture. They were either apprehensive lest 'the disgraceful intermeddling of the Governor in a court of law would be proclaimed by the publication, or that the verdict would be found to be established on too strong a basis of proof, to give the faintest semblance of plausibility to the false reports they had officially made of the trial, and the abusive language with which the verdict was treated at the Government house, and by the miserable creatures that crawled about it. But by the suppression of this publication, they attempted to remove the only control over the administration of public justice, which can exist in that part of our dominions.

In England, the presence of a numerous bar, consisting of men disciplined to the same learn-

ing, operates as a perpetual restraint on dangerous innovations of doctrine, or discretionary violations of principle in the courts of law. In unison with this check, the publication of the proceedings communicates an instant alarm, and error or injustice is summoned before the public mind by an almost instantaneous process. But in India, the absence of the former check, confers an inestimable value on the other. The Court would virtually sit with closed doors, a dark chamber of inquisition, were all notice of its proceedings through the press to be prohibited. Such, however, was the protection thrown over the most sordid criminals that were ever tried at Madras, that the most sacred institutions of law and policy were broken down without remorse or scruple. In this instance, however, the prohibition did not answer its end. The interest excited by the extraordinary conflict between power and justice in the Supreme Court, was so general, that several native writers made as accurate notes of the trial, as could have been taken in the most rapid short-hand. In the Gentoo, Malabar, Hindoostanee, and Mahratta

tongues, accounts of each day's sitting were transmitted to the extreme bounds of India, and read at meetings of their several *castes*. They were illustrated too with comments, that marked with how acute an intelligence the intrigues and discords of their European masters are noted by those, who are too much considered as the unobservant spectators of what is acting and suffering on that great theatre of our affairs.\*

The next quarter-sessions were fixed for the 4th of January, 1809. At these sessions Batley was to be tried for perjury. It was in effect another trial of a very important issue of fact, which had arisen on the trial of Reddy Row; for Batley's perjury was assigned on that part of his evidence by which he attempted to prove Anun-

\* A weak attempt was made by one of Sir George Barlow's party in the House of Commons, to justify the suppression of the publication of these trials, by the regulations framed by the Marquis Wellesley on the press in India. But that enlightened nobleman merely restrained the publication of political intelligence. It was foreign from his policy to prevent the publication of proceedings in a court of law. No such prohibition ever took place in India, previous to this arbitrary measure of Sir George Barlow.

dah Row's residence and service at the Durbar. Sir George Barlow entered into the preparations to meet this indictment with increased alacrity. The law officers were again ordered to defend, and at the instance of the solicitor of the Company, it was resolved to send a civil servant in the name and authority of Government, to Managoordy and Chillambrum, for the express purpose of procuring amongst the villagers of those districts, witnesses to negative the alleged residence of Anundah Row in those places.

The Governor, however, and his law officers, had, prior to the trial of Reddy Row, made inquiry as to the fact through a most respectable channel, that of Mr. Ravenshaw, the collector of Arcot. That gentleman, at a distance from these controversies, and wholly unacquainted with the parties, made the requisite inquiries, and communicated as their result to the Government, that in fact Anundah Row had resided in those places within the time mentioned.

By the mission, however, of Mr. Saunders,

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\* Papers printed for the House of Commons, 3. Carnatic Debts, p. 109.

they evinced a distrust in the information of the collector, which nothing but its not being conformable to their wishes could have suggested; for a more honourable man than Mr. Ravenshaw is not to be found in the service. They expected, however, that the name and authority of Government, and the hope of reward which so public an intimation of the solicitude of Sir George Barlow on the subject would raise amongst the ignorant inhabitants of those countries, might bring together witnesses, to overpower by numbers at least, the few whom the prosecutors, under all the disadvantage of labouring under the Governor's displeasure, would be able to procure.

On this embassy of perjury, this diplomacy of fraud and subornation, with instructions in the name of the Government of Fort St. George to *procure* witnesses to swear that they had never seen Anundah Row in the districts of Managoordy and Chillambrum, and to send them to Madras, Mr. Saunders proceeded, disgusted with the employ, but fearful to dispute the orders. His precursor on this infamous expedition, was a dubash of the name of Vencata Row, a person

of broken character and desperate fortunes, who having already arrived at Chilambrum, caused the villagers to be assembled, and proclaimed the protection and the favor of the *great men* at Madras, to those who would volunteer on the simple service of swearing what was required of them ! Let it be remarked also, that he was accompanied by Anundah Row himself, who, though convicted of forgery, had left the jurisdiction of the Court with the knowledge and connivance of the law officers and the Government.

The fruit of this embassy was about fifteen miserable wretches, who were dispatched to Madras to give evidence at the ensuing trial of Battley. It is a justice due to Mr. Saunders, that he felt the full disgrace of his situation. I had from his own mouth a most ingenuous acknowledgment of his conviction that the fact, which these witnesses were procured to negative, was indisputably true, and that even this wretched gang would not have been collected, if Vencata Row had not liberally dealt out rupees and promises in the name of the Governor. The Amildar of

the district, Narrain Pillay, being suspected of believing the fact which the Governor was anxious to disprove, and therefore not favorable to his views, was, at the bare suggestion of that circumstance through Reddy Row and Arundah Row, removed from his office, and ruined.

The expence of bringing those witnesses to Madras amounted, it seems, to a sum little short of fourteen hundred pagodas. It will scarcely be credited, even of Sir George Barlow, that he ordered this sum to be defrayed out of the fund set apart for the creditors; out of the fund which the prosecutors, as creditors, were endeavouring to protect from fraud. On this very fund, which these criminals were convicted of having attempted to plunder, the costs of their defence were made chargeable. This fact distinctly appears in the papers <sup>†</sup> produced from the India House. The statement demands no common portion of

\* 3 Papers for the House of Commons. Carnatic Debts. Mr. Orme's letter to the Chief Secretary, 24th Dec. 1808.

† Papers for the House of Commons, 3. Carnatic Debts, p. 111.

credulity. It stands, however, before the legislature on record.

This waste of a fund, appropriated by act of parliament to specific uses, and over which Sir George Barlow had no dominion or control, has other consequences beyond its involving the liability of the Company to refund every farthing of the misappropriation. It was shameless rapacity; an illegal act, issuing from the mere volition of arbitrary power. Reddy Row, it seems, had disbursed this sum. He applies to the Company's solicitor, Mr. Orme, for indemnification; and delivers to him his account of disbursements. The solicitor recommends it to be paid by the Government. Sir George Barlow "*sanctions the expenses,*" and directs the auditor to pay, and place it to the debit of the fund appropriated to the payment of the creditors. On the bare voucher of a man convicted of the grossest fraud on the creditors, a sum of money is thus taken from their pockets to defray the charges of his defence. Is it possible that this astonishing transaction should cause no degree of sen-

sation in this country, and invite to no sort of inquiry?

On the 9th of January, cause was shewn by the counsel for the prosecution against the rule for a new trial. Counsel on each side was heard at length. It was argued against the new trial, that

First, The jury were the exclusive judges of the facts in evidence.

Secondly, That the merits having been entered into, it is for the jury to decide on the contrariety of evidence.

Thirdly, That evidence having been heard on both sides, a new trial could not be had, because the verdict was against the direction of the judge on matters of fact, unless it had been against the weight of evidence; but that a new trial could only have been awarded, had the verdict been contrary to his direction on points of law.

Fourthly, That in this case the verdict was not against evidence, but supported by evidence of the strongest side; and the jury, and not the judge, was competent to decide on its credibility.

In support of these propositions, the counsel cited a judgment of Lord Hardwicke, in which the general province of juries to determine on facts was clearly defined, and that eminent judge declared, "that they had a power, by law, " to determine on matters of fact; and that it "was of the greatest consequence to the laws of " England, that the powers of judge and jury "should be kept distinct." He also quoted the strong language of Chief Justice Vaughan, to the same effect. He contended, that the granting a new trial in this case, would be in direct derogation from the acknowledged right of a jury to decide on facts; that this was a question of fact, unmixed with law; that no question of law arose; and that the jury received no directions, on points of law, from the judge; that the verdict of the jury proceeded on the weight of evidence; and that, admitting the opinion of the judge to be, that the weight was on the other side, the jury were to determine that question, not the judge.

Indisputable authorities on the subject of new trials, were adduced. The distinction between a

verdict against evidence, and a verdict given where there is contrary evidence, was insisted on. It was contended, that in those cases where a verdict was set aside as against the weight of evidence, it was where the evidence on one side was so slight, as to be equivalent to there being none at all. But that where the merits of the case had been heard, as in this case, in a trial of nearly fifteen days, the mere dissatisfaction of the judge with the verdict was no ground for a new trial, because it would lead to the entire annihilation of the right of the jury to decide on facts. And a case from Strange was relied on, the judge having certified that the weight of evidence was with the plaintiff, and the jury having found for the defendant, when the court said that the jury were the proper judges which scale preponderated; and that there being evidence on each side, it could not be said to be against evidence. To the same effect, numerous authorities were cited; and in reply to this argument, which was long and elaborate, it was feebly insisted, that the intricacy of the case required a new trial, and the doctrines insisted on

by the counsel for the prosecution, were scarcely questioned or denied. The judge pronounced no judgment on the question, but left the defendants at large on their recognizances. It is singular, that the application for a new trial was never renewed.

A special jury \* had been summoned to try the indictment against Batley for perjury. It was a cause of great expectation. Several gentlemen who were ballotted on this jury, were intimately conversant with the Persian and Mahratta languages; and a more unexception-

\* The following gentlemen composed this jury, consisting of the most respectable civilians and merchants

M. Jolly, Esq.  
 J. F. Collis, Esq.  
 W. Watts, Esq.  
 John Tulloh, Esq.  
 William Oliver, Esq.  
 John McDouall, Esq.  
 W. W. Weston, Esq.  
 Edward Dent, Esq.  
 Robert Machomiee, Esq.  
 Alexander Falconar, Esq.  
 William Hawkins, Esq.

able list could not have been selected from the Presidency. One of these persons was the Chief Secretary to the Government.

It was, in truth, a new trial of Reddy Row and Anundah Row. For the issue was merely as to the residence of Anundah Row at Madras, or at Managoordy and Chillambrum, at the time, when it was pretended, that the bond was granted. The prosecutors, in addition to the witnesses they had examined at the former trial, adduced twelve others from Chillambrum and Managoordy. The evidence of the defendant was principally that which they had procured by the mission of Vencata Row and Mr. Saunders. These witnesses prevaricated and contradicted themselves in every syllable of their testimony. It is important to remark, that one of the witnesses for the Government, Madapuh Tremal Row, a man who at the time in question was employed by Colonel Barrett, unequivocally swore, that he had never seen Anundah Row in Colonel Barrett's office at the Durbar. In his summing up, the Chief Justice endeavoured to prove, that the witnesses for the defendant, having been

adduced by the Government, had the presumption of superior credibility on their side./ But the jury adopting another, and certainly a safer rule of estimate, returned a verdict of guilty, recommending the defendant to mercy, on the ground of his former good character.

Under this defeat, it seemed hardly possible for the Governor to solace himself by imputations on the characters of a jury, of whom the greater part were in situations of the highest trust in the service of the Company. Destitute, however, of every honest pretext or decent plausibility to question the justice of the verdict, he began about this time to play off the wretched trick of ascribing it to faction, though the majority of the persons composing the jury were at that time holding places of responsibility in British India. Nor has the Madras Governor abstained from the reiteration of this wicked calumny, in his dispatches to the Court of Directors; and with a degree of success, sufficient to shew that he took but too accurate a measure of the heads and hearts of the persons whom he has seduced into that mischievous

error. Yet, though some of them have suffered under his displeasure, the majority of these jurors are now exercising the highest judicial and civil trusts which can be committed to men. Judges, in, the last resort, over the lives and properties of their fellow citizens, though, in the language of their employers, guilty of the foulest judicial perjury. Ministers of an immense revenue in offices, which try the austerest virtues and the sternest integrity, though accused by the Madras Governor of the basest prostitution of their consciences and their paths.

To lend a semblance and a colour to this imputation, it was proposed, that the three convicted persons should still remain at large on their recognizances, and that a report of the cases should be made to his Majesty. To this suggestion the Chief Justice assented. Sir George Barlow began to assume a loftier language. Threats, though yet obscure and undefined, were denounced against, the jury; and it was about this time that the persecution which has since visited the prosecutors, began to be faintly con-

ceived in the cold and gloomy bosom of the most unfeeling of mankind.

The indictment which remained to be tried, was that found against Batley and Reddy Row, for cheating Venaigum Moodelliar by means of a forged bond. The sessions were fixed, after successive adjournments, for the 2d of March. In this interval, an attempt was made to buy off the prosecutor. A compromise was actually begun betwixt Venaigum and Reddy Row and Batley, and a warrant of attorney given by the former to an attorney of the Court, a Mr. Disney, the brother of Mr. Anstruther, and the clerk of the Chief Justice, authorising him to withdraw the indictment, and release the prosecution.

This scheme was, however, frustrated. The counsel for the prosecution advised affidavits of the fact to be filed, and actually obtained a rule on the 22d of February, to shew cause why an attachment should not be issued against the attorney and the parties concerned in this infamous conspiracy. This attempt to buy off the prosecutor, no candour can reconcile to the consciousness of innocence. Such, however, was the

evidence against Batley and Reddy Row, that the presumption arising out of this circumstance was not once urged against them.

This trial began on the 3d of March, 1809, before a special jury moved for by the Advocate-General. It appeared from the evidence of Venaigum Moodelliar the prosecutor, that at the time of the Omdut ul Omrah's death, Reddy Row was indebted to the prosecutor in the sum of 15,500 pagodas. Venaigum pressed him for payment, and afterwards sued out process against him from the Recorder's Court. The plaint filed, and the capias, with the return of the sh-

\* The following respectable persons composed this jury.

James Balfour, Esq. Contractor for the Navy Board.

F. S. Collis, Esq. Merchant.

Edward Dent, Esq. Ditto.

John Gwatkin, Esq. Secretary to the Board of Trade.

G. G. Keble, Esq. Treasurer and Post Master.

W. Oliver, Esq. Register of the Suder adault Court.

John Macdouall, Esq. Civil Auditor.

W. Hawkins, Esq. Judge at Masulipatam.

Mark Rowarth, Esq. Merchant.

John Tulloh, Esq. Ditto.

W. W. Weston, Esq. Ditto.

Martin Jolly, Esq. Ditto.

rieff endorsed *non est inventus*, was produced in evidence. In order to avoid this process, Reddy Row confined himself to his house for nearly nineteen months. During this time, the prosecutor had received frequent messages from Reddy Row, imploring him to withdraw the process, and at length Batley himself sent for him, and requested him to permit Reddy Row to meet him at Batley's house without molestation. The prosecutor assented, and Reddy Row came. Batley then produced a Persian paper, which he said was a Nabob's bond, for 15,500 pagodas, in the name of Venaigum, and both of them assured him that Reddy Row had procured it in the Nabob's life-time. Batley told him the bond was a good one; that he knew it to be so; and advised Venaigum to take it in satisfaction of the debt. The bond was translated by Batley into English, and it purported to recite, that the money which Venaigum had lent Reddy Row, had been by him applied to the use of the Nabob as follows, viz. that 4,500 pagodas had been paid to Mr. Fitzgerald on the Nabob's account, and 11,000 pagodas towards the kists due to the

Company. Some days afterwards, they sent to Venaigam, and, in confirmation of this story produced two English receipts written by Mr Fitzgerald for the 4,500 pagodas. But the prosecutor remarked that the receipts were ~~of a date~~ *prior* to the actual loan of the money to Reddy Row. It seemed, therefore, that the pretence was inconsistent with the fact. The prosecutor expressed his surprise, but he was told by Reddy Row, "that he had previously borrowed money "from other persons to pay Mr. Fitzgerald, and "had afterwards applied the money he had bor- "rowed from him to replace those sums." The prosecutor, influenced by these assurances, and particularly by the representations of Batley, accepted the bond, and withdrew the suit. He emphatically swore, that he took the bond on the assurance given him by Batley, that he knew it to be a good and true one.

It further appeared, from the testimony of Chinniah Moodelliar, a native of the highest respectability, and wholly unconcerned in the Carnatic debts, that he had ~~exerted~~ himself, from friendly motives, in behalf of Reddy Row,

Venaigum. "Have you no bond or voucher," said he to Reddy Row, "from the Nabob, to offer Venaigum?" He unequivocally assured Chinniah that he had no such bonds.

Tremal Row, a servant of the Durbar, proved that Reddy Row, shortly after the accession of the present Nabob, had declared to his highness, that the late Omdut had given him no bond whatsoever, nor any other security but an assignment of crops within the districts of Madura or Tinnivelly; and that those districts having been occupied by the Company, he petitioned the Nabob, by means of his interest with the Government, to procure him an indemnification from the Government for the loss he had sustained.\* It was also proved by Mr. Brodie,

\* This strong circumstance was proved by Tremal Row in the clearest manner. The following is a literal extract from his evidence.

"Reddy Row presented the paper into my hands, requesting me to present it to the Nabob, while Mr. Webbe was there. I asked him what the paper alluded to. Reddy Row answered, that he had borrowed different sums from

that Reddy Row, in July 1802, had preferred his claim for 87,703 pagodas, on a balance of an *open account current*, through that gentleman, then acting as Mr. Fordyce's agent in India; that he asked Reddy Row whether he had no bond claims; that he answered, *he had none*; and that afterwards, this very balance of 87,703 pagodas was claimed a *second* time in *the form of bonds*. A material circumstance also appeared in Mr. Goad's evidence; that the bond, which

" soucarts, whose names were in the list accompanying the paper: that the *Omdut had given him no bonds for the soucarts*, but had mortgaged the paddy crop of Madura or Tinnivelly, I cannot recollect which; but as the Company had taken possession of the country, that crop was sequestered by them, and therefore he wished the Nabob to speak to Mr. Webbe on that subject, that through his intercession the crop might be given up by Government, to pay the soucarts, who were calling on him for the money. I returned the paper to Reddy Row, saying, it was not my business to present it."

Q. Do you remember the names of these soucarts?

A. I only remember three. Visvenauda Tauker, Verderajah, and *Venaigum*.

Q. Do you remember the amount of the sums due to the soucarts?

A. I only remember, that Verderajah's was about 5,000 pagodas, and *Venaigum's* about 15,000.

was the subject of this trial, was also in the hand-writing of **Anundah Row**.

To authenticate the bond, the defendants relied on the evidence of several soucars, who had accepted bonds similar to **Venaigum's** from **Reddy Row**, after the Nabob's death. The applicability of this species of evidence was doubtful. The only point it tended to establish was, a faint inference of his having obtained bonds from the Nabob ; since it looked like an improbability that so many persons should have consented to accept them in satisfaction of their demands, if they had not good reason for believing them to be authentic. It turned out, however, on the cross-examination of these men, that they by no means accepted them from a confidence in their authenticity, but out of a despair of recovering their debts in any other manner, and that they had actually required and obtained security from **Reddy Row**, to indemnify them against the event of their not being allowed by the Commissioners. The summing up of the Chief Justice was short. The jury, after a short consultation, brought in a verdict of guilty.

The counsel for the prosecution then moved for the commitment of the defendants. It was opposed by Mr. Anstruther, on the ground of an intended motion in arrest of judgment. The Chief Justice apparently giving way to the impulse which the three-fold conviction of the criminals forced upon his mind, committed them.

This circumstance was too hastily hailed, as an omen of the return of common sense and justice. For whilst men were congratulating each other on the triumph of law over the intrigues of Sir George Barlow, the delusion was dispelled. The Court was adjourned to the 8th of March, on which day it was expected that judgment would have been pronounced. On the 7th of March, however, the Chief Justice had a long interview with Sir George Barlow. The next day the criminals were brought up, and the Chief Justice pronounced his intention to refer the last verdict, with the former ones, to his Majesty, and to leave the defendants in the mean time at large on their recognizances. He condescended not to give one reason for this compliance with the wishes of the Governor.

which rendered the proceedings of justice at once contemptible and useless.

But the convicted criminals were, in their turn, indulged with a triumph over their prosecutors. The persons who, in making an appeal to the laws of their country, had no other end in contemplation than the protection of their property from depredation ; and who were the innocent causes, at least, of the disgrace and mortification which Sir George Barlow had gathered from his rash and foolish interference with public justice ; these gentlemen were now to be convinced that the threats which had been employed to divert them from their duty, were not the angry denunciations of a mind, which could be composed by a returning sense of reason or justice. The verdicts were monuments, on which the impotence and foolishness of his conduct stood recorded in characters of shame. He resolved, therefore, though he could not annul the decisions of a jury, to punish, with all the severity of offended power, the persons who had been chiefly instrumental to his overthrow and defeat.

This amiable project was conceived immediately after the trial of Batley for perjury. The Governor was at dinner with the few persons, whom, at a time when he was generally shunned and deserted, fear of his displeasure or motives less pardonable, had assembled at his table. The verdict of the special jury was announced to him, and from the character which his countenance assumed at the intelligence, it was prophetically felt, that he would let loose his threatened vengeance on the unhappy prosecutors of Reddy Row and his accomplices.

The commissioners condescended to become the tools of this infamous procedure. Accordingly, on the 6th of Feb. 1809,\* they addressed a letter to the Governor in Council, through the chief Secretary, in which they observe, that a letter had been addressed to them by Messrs. Parry, Abbott, and Maitland, requesting “ copies of certain papers, and containing an obscure and indefinite expression of their inten-

\* III. Papers printed for the House of Commons. Carnatic Debts, p. 253 and 254.

“*tion to proceed to the institution of further prosecutions. That the effects of the trials had impeded the discharge of their public functions, and therefore they were reduced to the indispensable necessity of distinctly and unreservedly stating to the Honourable the Governor in Council, that unless measures were adopted by Government to relieve them from the embarrassment to which they were reduced by the persons who have avowed themselves the prosecutors on the late trials, it would be impracticable for them to proceed with any immediate effect, or with any prospect of ultimate success, in the discharge of the duties that had been confided to them.*” This letter enclosed copies of the correspondence on which they grounded their complaint.

The matter, it seems, was hardly deemed worthy of a decent portion of deliberation. On the 8th of February, Mr. Roebuck received an order, removing him from the places he held of

\* III. Papers for the House of Commons. Carnatic Debts, p. 256.

Military Paymaster-General and Superintendent of the Mint, places of great emolument, to the charge of the factory at Vizagapatam, five hundred miles from Madras, a petty office, with a salary scarcely adequate to the bare support of existence. On the same day Mr. Maitland was dismissed from his office of Justice of the Peace, and Mr. Thomas Parry, who was deeply engaged in extensive mercantile concerns, which he had carried on for nearly twenty years at Madras, was ordered to proceed without delay to England.

If the subject were not too serious, it would be amusing enough to trace the alleged grounds on which these severities were inflicted. The complaint of the commissioners, upon which Sir George Barlow has artfully endeavoured to justify an act of cold-blooded and vindictive oppression, is obviously collusive and colourable. For it is a remarkable fact, that, to the very letter\* of which they complained to him,

\* III. Papers for the House of Commons. Carnatic Debts, p. 254.

and on which it pleased him to punish the prosecutors, they had already returned an answer, granting the request it contained. The letter was a simple application for certified copies of informations sworn before them by Reddy Row and others, intimating that a suspicion of perjury in those depositions, had been suggested by facts disclosed on the trial of Batley, and avowing their intention of indicting the suborner or suborners of the cheat and perjury, which had been established by two successive verdicts. This application was dated on the 3d. On the same day it was thus answered by the commissioners. †

To Messrs. Parry, Abbott, and Maitland.

“ Gentlemen,

“ We have received your letter of the 3d. Our deference for the verdict pronounced yesterday by a special jury, induces

† This answer, though suppressed by the commissioners, was afterwards sent in by Messrs. Abbott, Maitland, and Parry to the Government, and will be found III. Papers for the House of Commons. *Carnatic Debts*, p. 264.

us to inform you, that if your solicitor will attend at our office, with a copyist, at eleven o'clock to-morrow morning, or any other day, he shall be at liberty to transcribe the papers mentioned in your letter."

(Signed)

W. PARKER,

S. T. GOAD,

HENRY RUSSELL.

Office of Commissioners for investigating the Carnatic Debts,  
Fort. St. George, 3d February,  
1809.

This answer, in their complaint to Sir George Barlow against the prosecutors, they wilfully suppressed. The deference, however, which on the 3d of February they felt for the verdict of a special-jury, was all gone on the 6th. The matter would be inexplicable beyond all hope of solution, were it not a fact, which they cannot and dare not deny, that the day after they had descended to express their deference to the trial by jury, they were directed by Sir George Barlow at the suggestion of Mr. Anstruther, to write this very letter of complaint against the prosecutors, for the purpose of furnishing a

flimsy semblance of justification for the long meditated measures against them.

If, however, shutting our eyes to the gross prevarication and miserable shuffling of their conduct, we could examine their letter as a grave accusation against persons, who, on that accusation alone, were visited with the heaviest severities, the proceeding would still be stripped of all apology, considered either in regard to the commissioners themselves, or the Governor of Madras.

With regard to the commissioners, it is a mere complaint that they are impeded in their functions by a letter\* requesting “copies of certain “ papers, and containing an obscure and indefi-“ nite expression of an intention to proceed to “ further prosecutions ;” and they also notice a menace of “a ~~criminal~~ prosecution against them-“ selves.” They also complain that their functions had been impeded by the trials that had already taken place.

\* See the commissioners’ letter. III. Papers for the House of Commons. Carnatic Debts, p. 253.

Admitting the facts on which the complaint is founded, will it be seriously maintained, that they were impeded in the discharge of the duties by the trials which had taken place, or the prosecutions intended to be instituted; or even by the threat of a criminal information against themselves? It was their duty to have lent their aid to the prosecutions. Their functions would have been facilitated by the discovery of the fraudulent claims, by which their arbitration was notoriously perplexed and embarrassed.

Admitting, however, the inconceivable fact, that they were impeded by the public prosecutions, it would be too unwarrantable a courtesy to claim in their behalf, that law and justice, and the unquestionable right of appeal to a public tribunal, should give way to their convenience. No plausible pretext can be found for their calling in the aid of Sir George Barlow, to assist them in the execution of their duties. If they were incompetent to carry them on, they should have retired from their places. It is too much to punish innocent persons, in the legal exercise of their rights, for the incapacity of

others to fulfil their own duties. It is to be presumed also, that the act of parliament which defined those duties, gave also the means of performing them. If it did not, the defect could only be supplied by a legislative remedy.

But it should seem that they themselves were threatened with prosecutions. Admitting this to be the fact, could honest men be obstructed in the faithful execution of a public trust, by obscure and indefinite threats of prosecution? If the commissioners, in their protection of Reddy Row, were uninfluenced by corrupt motives; if they had been pure in their office, and not privy to the perjuries and subornations which it was the duty of the prosecutors to trace, they might have laughed at the menace. They would have been protected by the law; and shame and punishment would have lighted on the authors of the experiment. On the other hand, had they been fair objects of criminal prosecution, they ought not to have sought a

protection from law in the authority of the Governor. He had no dispensing power over the laws of his country. From this dilemma, therefore, the commissioners cannot escape. Either they were apprehensive that their conduct could not stand the test of judicial inquiry, or they sent in their complaint against the prosecutors with the connivance, and at the instance of the Governor, to crush and ruin those unfortunate gentlemen. They have either corruptly abused and betrayed their trusts, or played the parts of miserable underlings to the resentment and malice of Sir George Barlow. The latter supposition is ~~the~~ the most reasonable, since it is well known, that no intention of proceeding against the commissioners in any other manner, than by an application for mandamus to compel them to the production of papers, was ever entertained or expressed, either by the prosecutors or their counsel.

The policy of Sir George Barlow demands other considerations. Nor, in the review of it, is it necessary to wander from his own state-

ment of the principles on which it was originally devised and justified. He maturely considers "the facts represented in the preceding letters." Those facts are thus stated by the commissioners. † " *The effects of the trials which have already taken place, have been of a tendency materially to impede the discharge of our functions; and from the institution of the further prosecutions which have been threatened, we can contemplate no other result than the complete obstruction of our proceedings.*" In reply to this complaint, Sir George Barlow deems it essential that Mr. Roebuck should not be permitted to continue longer in the settlement. " Resolved accordingly, that Mr. Roebuck be directed to proceed with the least practicable delay to Vizagapatam." Then follow the banishment of Mr. Parry to England, and the removal of Mr. Maitland from his office of magistrate. In another part of the same paper, as if his mind was struggling against an

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\* III. Papers for the House of Commons. Carnatic Debts, p. 255.

† Ibid. p. 253.

inward conviction that the pretexts furnished by the commissioners would scarcely sustain the proceeding, he calls up from the oblivion of two and twenty years, a reprimand passed by the Court of Directors on Mr. Roebuck, for his activity in the disputes of 1788,\* although from that time he had advanced by talents and industry, acknowledged by successive Governors, and by the reiterated approbation of the Directors themselves, to the highest trusts and emoluments of the service.

It stands, then, not as an implied confession reluctantly extorted, but in a public declaration publicly recorded by Sir George Barlow himself — his own commentary on his own acts — that these gentlemen, British subjects, living under the protection of the British constitution, and entitled to all its privileges, were visited with deprivation and banishment, and without a

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\* It is superfluous to remind the reader, if he is acquainted with the disputes of that period, that they were wholly different in character and origin from those alluded to by Barlow. What he calls "disputes," were, in the latter instance, only public prosecutions in the King's court of law.

hearing, *retrospectively*, to punish them for having instituted criminal proceedings in a King's court of law, and *preventively*, to obstruct and deter them from further appeals to the same tribunal.

Happily, neither justice nor law are, in this instance, shaken by any thing of eloquence or reasoning. The shameless persecution is seen in all its odious nakedness. The outrage to humanity is reconciled to the understanding by nothing of that artifice of persuasion, or embellishment of discourse, which too often extorts from it an unwilling assent to the maxims of injustice and oppression. The same observation may be extended to all Sir George Barlow's writings in defence of his own acts. Cold, dull, heavy, and absurd. The littleness of his mind is pictured in the poverty of his style; no faint illustration of the fine reasoning of the critic,

Le faux est toujours fade, ennuyeux, languissant.

But had nature or education enabled the Governor of Madras, or his agent in England, to varnish over with the most splendid sophistry an act

so cruel and illegal, it would still have sounded with harsh discordance in the moral ear, that a power should any where exist to punish British subjects with beggary and ruin, for appealing, through a British tribunal, to the laws of their country; that such a power, which the highest member of the English constitution could not assume with impunity, should be exercised by the head of an English colony, the delegate of a mercantile company, himself of the lowest and obscurest extraction, and calmly avowed, as if it were in the ordinary course of his lawful duties. He places himself as a sentinel at the doors of his Majesty's court of justice, and deals out at once punishment and menace to the suitors who resort to it.

Let it not be overlooked in the grave investigation of these matters, that the parties who incurred the displeasure of Sir George Barlow, were never heard in their defence. He vouchsafed not to notice or answer their respectful applications, to know their crime, or their accuser. In violation of justice, as well as the positive

orders of the Directors themselves. The very mandate of punishment contained no mention of the accusation or the offence.

Upon Mr. Roebuck this act of power fell with peculiar weight. A service of thirty-five years, during which he had not once quitted India, and the laborious duties of the various offices he had filled creditably to himself and profitably to the Company, had given him a fair title to the lucrative appointments he held at Madras, as an old and meritorious servant. To these appointments he had been promoted, many years before the government of Barlow, on the ground of his peculiar and especial fitness. In the department of the Mint, his talents and pursuits rendered him the most useful officer in the service. This testimony has been given by one who could well appreciate his merit, in the protest of Mr. Petrie, against these arbitrary and wanton acts. "I particularly lament," says that gentleman, "the removal of Mr. Roebuck from the Mint,

\* Vide Petrie's Minute in Council. III. Papers for the House of Commons, p. 259.

“ as I am convinced there is not at present a gentleman in the service, who, from knowledge or experience, is capable of taking charge of that important department.”

He was about sixty years of age, a period when nature, especially in that climate, is beset with wants and infirmities. Habits of hospitality and kindness had endeared him to all who visited or inhabited Madras. A variety of circumstances had prevented him from laying up any provision for his age, independently of the emoluments of his rank and station in the service. His removal, therefore, was not simple exile from a place where a large portion of his life had been spent; but the sudden deprivation of almost all the comforts and supports of life.\*

\* It is well known that this unhappy gentleman, when he received the mandate from Mr. Buchan, addressed a respectful letter to the Government, dated the 9th of February, 1809, requesting to know why he was dismissed, and petitioning to be heard; and containing a declaration literally true, *that when he found the prosecutions in which he had engaged were displeasing to the Government, he had actually withdrawn from them.* In that letter, after expressing his surprize at the severe punishment inflicted on him,

Nothing was omitted of insolent or offensive in the mode of inflicting the punishment. His applications for time to arrange his affairs were contemptuously refused. The Governor of Mâdras made it a subject of facetious remark at his table — the ruin of an amiable old man, reduced by one blow from affluence to misery. What a heart must that be, which could extract a joke from this terrible vicissitude of fortune !

It is no reproach to this gentleman, that his health sunk under the calamity. The public degradation, the loss of the comforts, and the absence of the society that soothed his declining

he says, “ In this peculiarly distressing situation, I rely “ with confidence on the justice of Government, that an op- “ portunity will be afforded me of explaining or defending “ my conduct; that I shall not be punished unheard.” “ So soon as I received your letter of the 5th of October, “ directed to me jointly with Messrs. Abbott and Parry, I “ immediately withdrew myself from all connection with “ their proceedings, nor have I had any concern in them “ in the most indirect manner. I have paid a small sum “ towards fees in the two suits in which verdicts have been “ found against the parties, but I have no concern with “ any other trial; and in these I concerned myself, because “ it was of consequence to my property.”

years, overwhelmed his fortitude ; and he died literally of that lingering malady, a broken heart. No man indeed can say, that he was assassinated by the knife or the poignard ; yet those inflictions would have been comparative mercies, because they would have shortened the struggle between life and sorrow. Nor can it be said, that his death comes within the legal definition of a felonious homicide. But that is all. Nature takes inquisition of his blood. The crime is not engrossed on parchment, but engraved on the hearts of all who have not unlearned the almost instinctive abhorrence of man to malice and oppression.

The punishment of Mr. Maitland, who, in virtue of his duty as a Magistrate in the King's commission, had taken the informations against Reddy Row, a duty he could not have evaded, was, in its effect, less severe. He was only deprived of his office, the fruits of which enabled him to maintain his family. But the punishment of this gentleman demands the awful attention of all who retain their reverence for the forms and principles of the constitution. Sir George Bar-

low assumed in that punishment the right of punishing a magistrate for the execution of his duty! He avows it. “The conduct of Mr. Maitland having been incompatible with his public duty, as a magistrate of this place, resolved, that he be removed from that station.”

What was incompatible with his duty as a magistrate? He had honourably refused, at the bidding of Sir George Barlow, to dismiss the informations lodged before him. For the abuse of his office, or any other malfeasance, he was punishable by the Supreme Court in due course of law. But this proceeding proclaimed to every magistrate, that the tenure on which he held his office, was the abject surrender of its duties to the caprice and intrigue of Sir George Barlow.

Mr. Thomas Parry, the other person who suffered for having prosecuted Sir George Barlow’s favorites, was ordered home to England by the next ship; that is, a British merchant, in the midst of his complicated speculations, was simply to be driven, at a few weeks notice, to the distance of more than half the globe from his

property and employment. Can these things be, and incite no inquiry?

It is a most mortifying reflection, that the causes of all this persecution and outrage should have been three miscreants, thrice convicted by the oaths of English jurors of infamous crimes. But the proscription did not stop here. The sublime project was now conceived, of punishing those individuals among the juries, to whose influence the spies and sycophants of Sir George Barlow (instruments of Government notoriously and avowedly set at work) chiefly attributed their verdicts. Mr. George Strachey, Mr. Grant, Mr. Oliver, and Mr. Keene, were respectively removed from Madras: some of them apparently because they had served on the grand and special juries; others, amongst whom was Mr. Wood, for having merely uttered their opinions and their feelings on the subject of the trials.

It is not possible to describe the gloom and despondence which overhung the community at this season. They who, in the unsuspecting confidence of the social hour, had given way to

the impulses of the heart, in their strictures on the strange events that were passing around them, trembled for their fortunes and their families. Sometimes the informer received the immediate reward of his service in the very appointment from which his secret intelligence had removed his predecessor. It was said of one of the Roman emperors, that he was cruel because he was timid. It might be remarked of Barlow, that he was timid because he was cruel. The suspicions which tortured him, were the results of his policy.

It is natural that the diseased apprehension of a man, who had spread such universal disgust, should see faction and conspiracy around him. But the faction of which he complains, was nothing more than the general prevalence of sentiments, not adverse to his authority, but unfavorable to his character. This charge of faction, therefore, in which he has endeavoured to involve the whole settlement, which to the period of his administration was harmonious and tranquil, must rebound on himself. Complaints of factions are not very creditable to the government that

makes them. He is a bad workman who complains of his tools. *Celui* (says Montesquieu) *qui a tant d'inquiétudes de soupçons et de craintes, est un acteur qui est embarrassé à jouer son rôle.* Neither Lord Cornwallis, nor Lord Wellesley, nor Lord William Bentinck complained of factions.

The author of this calumny in England, was the person whom Sir George Barlow deputed for the special purpose of telling his story to the Board of Control and the Court of Directors. The same falsehood specifically appeared in his pamphlet, shaped into the bold assertion, \* that “ the agitation was far from being confined to “ the military, but extended in nearly an equal “ degré to the civil branches of the service, and “ that the factious parties in both departments “ of the service became closely connected in “ their criminal views.” He then enters into a detail of the trials. Mr. Buchan, it is understood, is a near relation of the President of the Board of Control; and although the dignified

honour of that nobleman must banish all suspicion of the want of candor and impartiality with which he investigated the transactions in question, it may yet be conjectured, that he lent an easy faith to the representations of so near a connection.

A short comparison of dates will demonstrate the *falsehood* of the assertion. The discussions respecting Reddy Row's forgeries began in June 1808. There was no military revolt till the middle of the year 1809. The prosecutors were threatened by Sir George Barlow in October 1808. The first verdict against him was given on the 9th of December in the same year; the second on the 28th of January 1809; and it was not till a considerable time after his quarrel with the Commander in Chief, which did not happen till the 13th of February, 1809, that the military disturbances commenced.

The conduct of the Madras commissioners through the whole transaction, but particularly their admitting Reddy Row's evidence on oath on questions relative to Carnatic claims, after he had been thus convicted of infamous crimes,

was 'scandalously indecent. Messrs. Abbott, Maitland, and Parry therefore made a solemn protest, in the form of a memorial, against them, concluding with a prayer for their removal from their office. This memorial stated all the circumstances relative to the trials down to the day of its date; the 5th of January, 1809.\* This memorial also accused Mr. Anstruther, the Advocate-General, of having had an interest in the support of Reddy Row, arising out of the large share he had purchased in the bond for 38,500 pagodas, and in several other claims which Reddy Row had preferred, or was about to prefer; and of having induced the Government to assist and uphold the defendants, in subservience to his own mercenary views, and in breach of his duty and his office. This memorial, which, according to requisite form, was sent to the Madras Government, in order to be transmitted to the Governor-General, was kept back for the space of a month. Successive memorials com-

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\* *III. Papers printed for the House of Commons. Carnatic Debts, p. 74, 80, 92.*

municated the successive convictions, and further instances of the partiality of the commissioners. They likewise stated the perjury which had been committed by Reddy Row, in swearing before the commissioners that his claim in the name of Gopaul Row was his own property, whereas it distinctly appeared from the evidence of Mr. Tulloh in the Supreme Court, that the property had passed into other hands, and a considerable share of it into those of the Advocate-General, Mr. Anstruther; a circumstance suggesting a strong suspicion, that Reddy Row had been *suborned* to swear that it was his own property, in order to suppress the important fact, that Mr. Anstruther was a sharer in it.

Sir George Barlow, however, in favor of the law officers and the commissioners, departed for a season from the inexorable rule he had observed on other occasions, and handed over the memorials to those gentlemen, in order that they might reply to them; a rule founded on equity and reason; if it had not been unfortunately narrowed in its operation to those only whom he

was determined to protect. The answer\* to these memorials was not received from Lord Minto till the 22d of May. It contained a long and disputationary reply to the points urged against the commissioner's and the law officers, mixed with much disgusting panegyric of those persons. Nor did it disappoint the expectation that had been entertained of it. For by this time, the Governor-General had been completely identified with the Governor of Madras, having been drawn in, step by step, to approve the proceedings of Fort St. George, till it became impossible to recede without betraying the grossest inconsistency of conduct and opinion.

I hasten to close this disgusting scene of violence and intrigue. We have already seen the Governor of Madras connecting the cause of his government with that of three persons convicted of frauds on a fund appropriated for specific purposes; these wretches openly supported before

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\* III. Papers printed for the House of Commons. *Carnatic Debts*, p. 369.

and after conviction by the arbitrators who were sworn to investigate the claims on that fund; the reference of the complaint against Reddy Row to a committee consisting of the law officers, unquestionably and palpably interested in the very claims which were suspected; *a report from this mock committee, declaring the charges against Reddy Row to be false and malicious*; an appeal to a British court of law in the ordinary mode of a criminal prosecution; the Government, at the instance of the commissioners and the law officers, defending the criminals; a counter prosecution threatened and attempted, but afterwards *abandoned*, against one of Reddy Row's prosecutors, and a prosecution actually commenced against two of the witnesses; the remonstrance of the creditors upon the connection of Mr. Anstruther with Reddy Row, and the advice he had given the Government in consequence of that connection, denounced by Sir George Barlow as a contempt, and their application for a copy of a paper of Mr. Anstruther's, reflecting on themselves, considered as an aggravation of it; the commissioners refusing to grant

to the prosecutors necessary copies of papers to substantiate a public charge of fraud on the funds they were appointed to protect and distribute; the bill against Reddy Row found by a grand jury, composed principally of civil servants; the bill preferred by the Government against the witnesses thrown out by the same jury; the successive postponements of the trial; the conviction of Reddy Row and Anundah Row by a respectable common jury, after a trial of fifteen days; the decision by a special jury of the same issue by Batley's; the remarkable fact of Mr. Anstruther's property in the forged bond; an ineffectual attempt by Reddy Row and Batley to buy off the prosecutor of another indictment then pending against them; the trial and conviction of Reddy Row and Batley for another conspiracy, and cheat by means of another forged bond, before another special jury; both these special juries, untainted with suspicion, consisting of the most intelligent and honourable men in the community; the prosecutors shamefully, and without being heard, punished with ruin and reproach by Sir George

Barlow, for the specific offence of proceeding against these men in a King's court of law; a magistrate summarily deprived of his office, for having committed them in the faithful discharge of his duty; the prosecutors, counsel, jurors, all involved in one indiscriminate charge of faction; the suppression of the publication of the trials by Sir George Barlow; and lastly, the convicts themselves represented to the Crown by the Chief Justice, as fit objects of pardon, on the special ground that they were convicted by factious verdicts, who, on the faith of that representation, though against the most satisfactory and redundant testimony of their guilt, were actually pardoned.

Before, however, the pardons thus obtained arrived at Madras, occurrences took place, which, in order to complete this part of the subject, I shall shortly narrate, though subsequent in order of time to the portentous train of military transactions still to be unfolded. These occurrences may be rightly considered as almost providential vindications of the juries and the prosecutors. And it is a matter most conso-

latory to those who have witnessed the acts which have violated law and disturbed humanity in that settlement, that the most sacred tribunal of British justice, the trial by jury, stands untouched by suspicion ; and that all the aspersions aimed at the juries of Madras, reflect disgrace only on their authors, and the credulous imbecility of those who believed them.

After the recommendation to the King of the three delinquents, they were left at large to enjoy the triumph they had obtained over their prosecutors. Reddy Row remained in high confidence with the commissioners, and continued to assist them in their investigations. At length, however, a light broke in gradually on their eyes, and the frauds and villainies of Reddy Row, which three verdicts could not elucidate, became matters of demonstration, first to the public, and then to the commissioners. They at last withdrew from him their protection ; and, on the palpable discovery of his having forged a bond, which had been sold to Mr. Casamajor, one of the members of Council, Mr. Anstruther himself offered to pro-

secute him. The creditors rejected this proposal. They considered it as a mere project to elude the ends of justice. Nor was this virtuous offer made, till every stratagem to defeat the enquiry had been unsuccessfully tried. Then he kindly undertook to encumber the cause with his assistance.

Mr. William Brodie challenged the claim of Mr. Casamajor on this bond. The actual forgery of it lay within the conusance of Fyz Mahomed Kawn, son-in-law of the late Nabob Wallajah. Mr. Brodie applied to the commissioners to summon him. The last desperate struggle of Reddy Row and his associates was, an attempt to suppress this testimony. The Nabob was prevailed upon (need I point out to the discerning eye of the reader by whom?) to send a part of his guard in the dead of night, to the dwelling house of the witness, Fyz Mahomed Kawn, who, with his whole family, was carried to the Nabob's palace, and kept there for several days in the closest custody. The relation of the Nabob to the Government of Fort St. George,

suggests more than a presumption that his highness would not have ventured on an act so, disrespectful to its authority, as the seizure of a native inhabitant within the jurisdiction, and enjoying the protection of the British law, without their actual connivance.

Mr. Brodie represented, in respectful terms, this daring attempt to suppress the evidence of Fyz Mahomed Kawn. The representation, and the papers accompanying it, were immediately returned by Sir George Barlow, with an arrogant threat of his displeasure for interfering in the concerns of the Nabob !

In the mean time, the parties suffering under this imprisonment, applied for a writ of **Habeas Corpus** against the Nabob. The Government ordered Mr. Austruther to oppose the writ. The Chief Justice refused to swear the persons to their affidavits, under the pretence that they did not properly designate the Nabob. This objection was removed. The writ was granted with reluctance and delay, though demandable of right, and invariably granted as of course. The parties were liberated.

The investigation of the bond then went on. It was proved to have been forged through the procurement and instrumentality of Reddy Row. This, however, was not the only villainy which was unravelled. A teep, or assignment of the produce of territory, to the amount of 5,000 pagodas, had been granted by the Omdut. Reddy Row, by means of his access to the Durbar papers, converted the 5,000 into 95,000 pagodas. This was effected by the interpolation of a Persian word corresponding to *ninety*. Coopchund, the person who drew the teep, swore that the whole of the paper, except "ninety," was of his hand writing; and on reference to the list of the teeps granted by the Nabob, the original teep for 5,000 pagodas was found duly entered. This, with other corroborating circumstances, elucidated to the commissioners the character of Reddy Row, and effectually removed the amiable scepticism, which had heretofore veiled his cheats from their understandings.

These gentlemen, therefore, resolved, not indeed to deliver him over to criminal justice, (that would have been an indelicate procedure,) but

but to dismiss him from their office !! In this crisis of Reddy Row's fortunes,

“When interest called off all her sneaking train,”

when Mr. Austruther abandoned him, and Sir George Barlow appeared no longer disposed to awaken the energies of power in his behalf, he adopted the desperate extremity of suicide. Having procured a quantity of *jingley* oil and opium, it seems that about three or four of the morning of the 11th of June, 1811, he carried his resolution into effect ; for at about five o'clock, he sent for three of his friends, Narrain Row, Kistnah Row, and Chinniah Reddy Row, to whom he communicated what he had done. They attempted to administer the usual remedies, but he refused to swallow them, saying, “I have taken poison of my own free will.” The cup of oil was found near his bed empty, part of the opium, and the knife with which he had cut off the portion he had taken. Such was the precipitation with which, in pursuance to his orders, the body was consumed, that when the inquest of the coroner assembled, the jury could only

obtain parole evidence of the cause of his death. The fact, however, was clearly established. An apologist for Sir George Barlow affected, in the House of Commons, to disbelieve it.\* I have therefore narrated it with minuteness.

The creditors were now enabled to procure an investigation of the claim, from which Mr. Anstruther's celebrated bond in favour of Gopaul Row (the subject-matter of Reddy Row's trial) had originated. The commissioners, after having tried a few paltry artifices and evasions, at length acceded to the requisition; and those gentlemen, who a few months before had declared upon their oaths in his Majesty's Supreme Court, their belief of the truth and validity of the instrument, and to whose testimony the Chief Justice attached the highest importance, in his recommendation of Reddy Row to his Majesty, were finally con-

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\* Mr. Charles Grant. “Whether Reddy Row fell by his own hands, or by the course of nature, he could not tell. But Paupiah Braminy had also made a sudden exit, and poison might as fairly be attributed to him as to the other.” Debate in the House of Commons, 21st February, 1811. Paupiah Braminy died of a lingering disease, that had afflicted him for nearly two years.

vinced that it was a forgery ; and *they reported such to be their opinion, to the commissioners for investigating the same claims in London.*

Truth and justice owe these persons but little for their reluctant acknowledgment of a fact so well attested. In the mean time, the conspiracy, which had defeated the ends of justice, began to be gradually developed. Narrain Row, Sundah Row, and Rurjah Row, three witnesses who had sworn to the documents produced by Reddy Row on his trial, and had attempted to prove the residence and service of Anundah Row at the Durbar, went \* before the commissioners, and declared upon oath, that the bond of Gopaul Row and all the papers taken from the dufflers were forgeries ; and that Anundah Row had never been employed at the Durbar ; but that they had been suborned by the promises, and compelled by the threats of Reddy Row, to perjure themselves.

To this, an absurd reply is attempted : that the testimony of men, declaring themselves

guilty of perjury, destroys itself. Be it so. No man can contend for the purity of such evidence. They have committed perjury. If on the trials, Reddy Row's defence had no other support, nor the Chief Justice any other grounds for his recommendations. If in their confessions, their credibility on the trials is gone. But why should the matter be debated? The commissioners have put the question to rest. They have recorded it as their opinion that the bond is a forgery. The evidence in support of it, falls with it.

Early in July 1811, the pardons thus obtained on the specific ground that the verdicts were contrary to evidence, and the results of faction, arrived at Madras. Reddy Row was no more. It happened, however, by a rare fatality, that a bill of indictment against Anundah Row for another fraud, was brought into the Court by the grand jury but a few minutes before the pardon of his former crimes was read; and at the next sessions, he was convicted on satisfactory evidence. He has since stood in the pillory, in part satisfaction of his judgment.

The spectators of these strange contradictions were mute, but astonished. It disturbed indeed the reflections of persons not quite broken in to these unnatural occurrences, that the royal clemency should have descended on persons adjudged guilty by judicial verdicts confirmed beyond all suspicion by subsequent proofs, even to demonstration, with regard to one of the persons recommended; and by the fresh conviction of the other for a kindred offence. If the public feeling of Madras has not yet been expressed by an appeal to parliament against Sir George Barlow and the Chief Justice,\* let it not be concluded that it is torpid and indifferent. Sir George Barlow, however, had early notice of an intended petition. His spies were incited to keener vigilance. The first signatures to it would have been the instant ruin of those whose bread, and the existence of their families, depended on his pleasure.

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\* A petition to the King, dated 1st of April, 1811, against the Chief Justice, has just been received. It is signed by the prosecutors.

Compendiously to sum up these intrigues, the royal ear has been abused by mutilated statements of the evidence against the pardoned criminals. The evidence was not fully or impartially laid before the King: The King was deceived and misinformed. In the foregoing pages, I have rapidly sketched that evidence. No man impartially considering it, can dissent from the conclusions of the juries. Neither Mr. Buchan, nor Mr. Charles Grant, who have hitherto struggled against fact and reason in defence of Sir George Barlow, can now, in contempt of that which has happened *since* the trials, persist in their sullen warfare against truth, and the common sense of mankind.

But it is upon record, that these acts of power, which have overwhelmed with ruin the prosecutors of men, whose guilt no man is impudent enough to deny, and have nearly subverted the law and police\* of that settlement, originated

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\* It is stated as a fact, by the petitioners to his Majesty, that "perjury is become now a common and daily traffic among the natives, and they do not hesitate to offer to let

from the speculations of Mr. Anstruther in the purchase of Nabob's bonds. In one word, that the whole of Sir George Barlow's policy relative to those transactions, was lineally descended from the unlucky purchases into which Reddy Row had betrayed Mr. Anstruther. Sir George Barlow, therefore, was primarily the unconscious purveyor to the avarice of his Advocate-General; its tool and its plaything. By degrees, and in the ordinary course of the passions, he advanced from error to anger; from anger to persecution.

This connection of Reddy Row and Mr. Anstruther is not a malicious fiction. It is a solemn truth. No man can entertain a doubt of his participation in the bond which was the subject of Reddy Row's trial. It has subsequently been proved,\* that besides his share in that bond, which was sworn to by Mr. Tulloh, he was a proprietor with Mr. Orme, of three

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“out to hire their favourable testimony in the investigations now going on before the commissioners, or to threaten the reverse, unless prevented by a bribe.”

\* By Mr. Brodie, before the Madras commissioners.

distinct claims to a large amount, comprehending the very bond in the name of Gopaul Row, with various slices of other speculations; and that every one of these purchases was recommended to them by Reddy Row and Batley. It was proved before the commissioners, that the very schedule of Gopaul Row's claim, preferred by Reddy Row, and which Reddy Row was shamefully *induced to swear to, as his own property*, was drawn out at the office of Mr. Orme, in the presence of Mr. Anstruther. Reddy Row, therefore, when he swore before those commissioners to the claim, as his *own*, was guilty of perjury. It had passed by purchase into the hands of persons who were anxious to conceal from the world their own share in the traffic. This is a solution of the seeming problem, that amongst the long list of claimants published by the commissioners, the names of these persons, notoriously the deepest speculators, are not to be found.

It was more than once in contemplation to bring the suborners of Reddy Row's perjury,

whoever they were, to justice. To those who had traced these delinquencies into their secret labyrinths, such an example seemed peculiarly requisite. It was a comparative waste of the vindictive strength of the law, to expend it on the petty and subaltern offenders, who had naturally cherished hopes of impunity from the avowed countenance and support of power. But this proceeding, which would at once have elucidated the problem by the sure criterion of judicial evidence, was most effectually barred by the refusal of the commissioners to furnish the requisite papers, and the punishment and ruin of those who had instituted the former indictments. Against a wanton or groundless prosecution, the law had interposed preventives of sufficient force; but who would brave the penalties which were thus publicly proclaimed against the prosecutors of convicted delinquents, if it should please the Governor to protect them?

It is now time to hear that which Mr. Anstruther himself has said, in reply to the serious charges brought against him. These charges

are reducible to this general accusation ; that being a speculator in Nabob's bonds, a proprietor of the claim for which Reddy Row\* was prosecuted, and involved in various adventures connected with his claims, or entered into on the faith of his assurances, he was interested in the protection of Reddy Row from prosecution ; in the validity of his claims, and in the obstruction of the measures set on foot to invalidate them ; and that with this palpable interest, he *officially* advised the Government to defend and countenance him, and to prosecute the witnesses that appeared against him ; and that the commissioners acted under his advice and influence, in the part they were induced to take in these proceedings.

Is this charge substantially proved ? If the facts already detailed do not amount to unanswerable proof of it, nothing short of the confession of the party will prove it. His own explanation, however, is more than a confes-

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\* Vide the Memorial of Messrs. Parry, Abbott, and Maitland, to the Governor-General, *passim* III. Papers for the House of Commons. Carnatic Debts, p. 74.

sion.\* What is not admitted, is betrayed by the shuffling prevarication with which it is denied. He admits, that like "many others, " of his superiors, " (I quote his language) " he " had concerns in Nabob's bonds, though not to " any such extent as seems to be supposed by " the authors of the Memorial." But he does not state to what extent. " A share in one of " them came to him by assignment from Messrs. " Tulloh, Brodie, and Halyburton: in others, " (he does not describe them, nor their amount) " he *received* shares from different individuals " who purchased them, and amongst these, that " some had been shewn to Reddy Row by per- " sons who had confidence in him, and were " desirous of his advice, and that he had spoken " favourably of them."

His participation in the traffic stands admitted. Some of them had been shewn to Reddy Row, " who had spoken favourably of them." But he does not tell us that he did not purchase these very bonds through his agency,

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\* Vide Mr. Anstruther's Defence. III. Papers for the House of Commons. Carnatic Debts, p. 243.

and on his recommendation and responsibility. The word “*some*” is conveniently indefinite. The accusation is, therefore, not only unanswered, but admitted. The favourable report made by Reddy Row, of these bonds, by no means excludes the fact of their having been originally purchased of him, or through his intervention. Reddy Row most assuredly would speak favourably of bonds which he had himself sold, or recommended.

It is not denied, that a connection relative to these speculations existed between them ; nor that from May, 1806, Reddy Row was the constant attendant at his chambers ; that he purchased, with Mr. Orme, and the house of Lautour and Co., of this very Reddy Row, in December of that year, a bond for 70,000 pagodas, from a soucar ; that the whole of the negotiations relative to the sale were conducted by Reddy Row ; that it was bought on his attestation of its authenticity ; that the purchase-money was paid into his hands ; and that the bond has been since challenged as one of the cheats and

forgeries of that expert impostor. Not a word of this.

But it is amusing enough to observe how he attempts to exonerate himself from his concern in the bond which was the subject of the first trial. “*After the present disputes began,* I found “ that one of the bonds in which I held a share “ had been his (Reddy Row’s) property, being “ the bond which was afterwards the subject “ of the trial.” I also found that he had an in- “ terest in another, of which I had *also* obtained “ a share. Immediately on being acquainted “ with this circumstance, I disposed of *both* “ these bonds, before I had occasion to give any “ opinion, public or private, concerning them. “ The purchasers were Binny and Dennison, “ on behalf of a constituent.”

Such a tale could scarcely impose on children. After the disputes began, that is, after the forgery of the bond had been detected; at any rate, after it had been tainted with suspicion, and was therefore unmarketable, he is enabled, through Messrs. Binny and Dennison, to *dispose*

of his share in a suspected claim. Upon the face of this allegation, the sale must have been collusive and fictitious. Some skill is evinced in the phrase “ disposed of.” But the real question is, whether, under such circumstances, there was a *bona fide* sale? It is obvious, that no agent or banker could honourably recommend his constituent to such a purchase, *after* the disputes had begun; that is, after information had been given to Sir George Barlow of Reddy Row’s forgeries, on the evidence of the very persons who saw the forgery; and after the mock-enquiry into those transactions before what was called a committee. The “disputes” had not begun before. Without adverting, therefore, to the notorious connection between Binny and Dennison and Mr. Anstruther, will any reasoning creature believe that the share of a bond, to the actual forgery of which testimony had been already given, could have passed as a matter of fair and honest transfer; at a time, too, when the market was overflowing with instruments, which had neither been impeached nor discredited? True, the Ad-

vocate-General might have disposed of it. For what consideration? It does not appear. When? It does not appear. But granting that it was sold, \* with an indemnity to the vendee against the contingency of its being disallowed by the commissioners, (the only conditions on which the sale could have been effected,) the interest of Mr. Anstruther in the bond still remained; a clear, palpable, pecuniary interest to support and establish it. Yet some time in 1810, Mr. Binny, at the requisition of Mr. Brodie, being examined touching Mr. Anstruther's interest in Reddy Row's bond, declares that the Advocate-General had disposed of his share, not as he himself had stated, to a "constituent" of their house, but partly to a native, partly to Mr. John Binny, jun. But the commissioners did not ask him, nor permit the questions to be put, as to the name of the native, or the date of the transfer. With the dexterity of epic poets, seeing that their hero was in danger, they res-

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\* In most of the purchases of these claims, the purchaser secured himself by an undertaking to indemnify.

cued him in a cloud. It does not appear that Binny and Dennison bought the *other* bond, which Austruther admits to have been Reddy Row's.

There is an end, therefore, of his defence. But he says also, that "as a party concerned in "the claims of the Carnatic, he never advised "with the commissioners." How is this? For the fact itself was admitted by Mr. Parker,\* on the trial of Reddy Row. Is there no equivocation lurking in the assertion? Is he not sheltering himself under the reservation, that he gave no *written* or *professional* advice?

Yet he admits that he advised with them relative to the proceedings in Court. But whether he advised the commissioners or not, is a question of minor importance. Did he give Sir George Barlow the advice; which gave birth to his measures against the prosecutors of Reddy Row? Did he advise him, as he ought in the strict and conscientious discharge of his duty to have done, against his interference with the cre-

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\* One of the commissioners.

ditors; against the support of Reddy Row; against the attempt to intimidate the witnesses by counter prosecutions; against the punishment of the prosecutors? On the other hand, so far from observing a decent neutrality, or advising the Government to be neutral, did he not make a report,\* alleging the innocence of Reddy Row, blackening his accusers, and recommending to Government the prosecution of those who had instituted the inquiry? In one word, does not Sir George Barlow build the general justification of his measures relative to these disputes, upon the official and professional opinions of Mr. Anstruther?

I have now finished this detail, tedious from the multifarious documents over which it is dispersed, but requisite for a right apprehension of Sir George Barlow's policy. If the matter be investigated, with a generous and manly determination to correct the abuses of remote delegated power, redress and retribution are not far distant

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\* Papers printed for the House of Commons. *Carnatic Debts*, p. 41.

from those, who, now awed into silence, can only breathe the fervent petitions of the heart to the redeeming justice of Great Britain. They ask for inquiry. Let them be heard. Of this boon they do not despair, if the honour, candour, and good-nature which formerly characterized the councils of England, have not yet departed from us.

It will be a question of high consideration, whether the powers arrogated by Sir George Barlow exist by law; or if they do, whether they ought to be continued. In truth, no law, which is not immediately abrogated by an higher law, could sanction or ordain oppression; and the benefits of British judicature, expressly imparted to our fellow subjects in India, is a pledge solemnly given them, that they are not out of the pale of the British constitution. But they who know how efficiently arbitrary power is restrained by British law, excluding from their estimate the tendency of remote distance to weaken its control, may yet be incredulous of the extent to which a Governor in the Company's territories may proceed; when in almost every instance he looks for impunity to his im-

mense distance from responsibility ; backed as he is with the ordinary chances of the game, the leaning of the reviewing authorities to his cause, and their natural indisposition to believe, ~~or~~ even to hear, the allegations against him. Never, therefore, was the grave interposition of parliamentary inquiry more loudly demanded.

These disputes, however, were mere skirmishings, which did not divert Sir George Barlow from his more dignified conflict with the army. It has been already seen, † that the generous attestation of Colonel Capper to his Deputy's exemption from responsibility, for the new offence of obeying the orders of their Com-

\* If this hope should be extinguished, the ordinary tribunals of law may be resorted to, when he arrives within the jurisdiction of the Courts here. He is indictable at common law for his measures against Roebuck, Parry, and Maitland, if *malicious, or without just cause*; or liable in civil actions to all whom he has injured by the oppressive exercise of his power. Besides this, the acts 11 and 12 Will. 3, c. 12; 27 Geo. 2, c. 9, s. 13; 21 Geo. 3, c. 70; and the 26 Geo. 3, c. 57, are expressly framed for the punishment of these oppressions. They all, however, imply the presence of the offender in England.

† *Supra*, p. 74.

mander in Chief, did not withdraw the vengeance of the Madras Government from its first victim. It had no other effect than that of involving Capper in the same punishment. It may indeed be well conceived, that the Governor either did not understand the manly disinterestedness of the declaration ; or, looking into his own breast, and finding there no analogies of a kindred sentiment, deemed it to have been counterfeit and dissembled. The same rule will explain the scepticism of Sir George Barlow's partizans, concerning the motives which suggested so frank a procedure, and the mean, but *prudent* malignity\* which defamed him, as soon as they were assured that he was no more. Colonel Capper, under sentence of suspension from a service which he adorned, embarked and perished with his unfortunate General.

Nor do I think it foreign from this narration, or an impertinent digression from the argument, to pay a passing tribute to this excellent officer. It is not the lightest among the evils born of this

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\* See Authentic Narrative, p. 77.

wretched policy, that in the course of events, it led to the premature death of Colonel Capper. He was a man of unbending integrity, and of bright example and promise to his profession. His heart was unpolluted with one selfish feeling. It was attuned to honour, and tremblingly alive to its impulse. Of social life, he was the delight and the admiration ; and the elevation and ardour of his mind were agreeably softened by the sweetness and elegance of his manners. It may administer some solace to the sorrows that bewail his loss, that this is but the faint echo of a regret, widely diffused amongst those who knew him in India. Gladly do I except from this number, the few whose withered, diminutive minds, not grasping within their conceptions virtues of a size and character so transcending their own, have taken after his death, the sordid pay of his oppressor, to blacken and revile him.

Difficulties were now gathering around the Madras Government, which were only to be subdued by temper, conciliation, and prudence. It is not to be denied, that the proceedings against the staff officers were of dubious

justice, and unquestionable severity. The spectators could not be wholly indifferent to what was acting before their eyes; for those spectators were the army themselves, each of whom felt the vibration of a blow, which subverted at once the principles of military discipline, and the securities of military law. The right of punishing and degrading officers without any trial or hearing, was assumed and acted on. When you tell a large body of men that they are no longer protected by that general justice which is the great standing policy of civil society, you are at least prescribing harsh and unpalatable conditions of obedience. You are making ample demands on their patience, and even their philosophy. But if, under such circumstances, the ordinary progress from the sufferings of individuals to the discontent of the whole, is to be counteracted at all, meanness is the only safe or salutary expedient. Above all, it would have been sound wisdom to have dispelled these inquietudes, by shewing the army that the obnoxious measures were not the standing rule of Government, and that the established usages of the service

had been only occasionally relaxed, and not fundamentally destroyed.

This would indeed have been more practicable, had the staff officers committed an offence, in the character of which the feelings of mankind were so well united, that they would overlook a departure from form or usage in its punishment. Unfortunately, theirs was a crime of a different complexion. If not of positive merit, it was an act of strict duty. But when Sir George Barlow could find no support in the sympathies and sentiments of the world, common policy ought at least to have taught him unity and consistency to himself. Folly, ripened and perfected into madness, would hardly have crushed an individual with a weight of punishment due only to the most atrocious crime, and in a few days treated that crime as venial and excusable.

Yet it is true, in the strictest sense of the word, that an attempt was made, with the privy and concurrence of Sir George Barlow, to obtain from Major Boles (Colonel Capper had already embarked for England) a slight acknow-

ledgement of his fault, as a condition of his reinstatement in his office. Major-General Gowdie, successor to General Macdouall, was the instrument of this negociation. Pope asks; What must be the priest, where a monkey is the god? What, it may be asked, must have been the negotiators of such a treaty? It was simply proposed to a man, suffering under unjust disgrace and punishment, that he should acknowledge that he had deserved it. Where one party invites the other to a negotiation, of which the basis is the dereliction of honour and the loss of reputation, he plainly tells you of what stuff his own honour and conscience are composed.

Major Boles, with an elevation of mind which ruin and suffering had not depressed, rejected the overture. Nor will they who know Sir George Barlow, give him credit for sincerity even in this base proposal. The negotiation was conducted through the intervention of persons who promised merely to use their influence, but expressly intimated that they had no authority for the overture. Had Major Boles made the admission, the purpose would have been answered,

and the authority of the negotiators disavowed. Major Boles would have remained where he was, punished, degraded, and ruined ; but he would have been without defence, and deprived of all which adorns and supports adversity ; whilst his lips must have been closed for ever as to the justice of the sentence and the truth of the accusation.

There is something so mean and little in this procedure, that Sir George Barlow has not directly communicated to the authorities in England the fact of these advances having been made to Major Boles. He has, however, in subsequent acts, sufficiently acknowledged it. In his statement to the Court of Directors,\* which, in the shape of an anxious vindication of his measures, betrays a timid distrust in their rectitude, the reputation of General Gowdie to Major Bowles is virtually admitted. “ In promoting the currency of the inflammatory order,

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\* Papers printed for the House of Commons, Vol. 1. Madras Army, p. 30, par. 9.

Ibid. No. 2. A. p. 18.

“ those officers had committed an act of great  
 “ enormity, but it was remote from our desire to  
 “ punish wantonly.” “ We were therefore *fully*  
 “ *prepared* to have received any acknowledgement  
 “ which either or both of the officers in  
 “ question might have made, as an atonement  
 “ for their conduct.” And it is further made a  
 substantive charge against these officers, that  
 “ they held a language very different from that  
 “ of acknowledgement and atonement.” A cir-  
 cular letter from General Gowdie not merely ad-  
 mits, but specifies the fact of the attempted me-  
 diation ; and applies to Major Boles the grossest  
 and the lowest language for having rejected it.

Who, therefore, knowing the subordinate and humble instrumentality of General Gowdie to Sir George Barlow in every stage of the contest, can refuse his assent to an inference, which the conduct of both forces on the understanding ? Sir George Barlow avows that he was *prepared* to have received an acknowledgement, and his Judge-Advocate-General, \* whose opinions

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\* Papers printed for the House of Commons, Vol. 1.  
 Madras Army, p. 35.

never fall one note beneath the concert pitch of his master's policy, candidly states it to have been the intention of the Government to restore Major Boles, as soon as he had humbled himself by an apology.

The disgraceful fact is admitted. Let us examine the odious doctrine. It must be clear, that an offence which had called down the heaviest punishment; which had been deemed a fit occasion to substitute for all forms of inquiry, a proceeding at once summary and vindictive, must have been considered by the Madras Government to be of signal enormity. Viewed in a military aspect, it must at least have been an act transcending the crimes against discipline or subordination, which fall within the ordinary cognizance of military tribunals. It must have been considered as a crime against the state; rebellion grafted on mutiny. Yet, having hurled the heaviest denunciations and the severest inflictions against the crime and the offender, we see the Governor of Madras basely offering to compromise the one, and meanly tampering with the other, to intimidate, as it should seem, the victim whom he had

crushed with his power, into a *reluctant confession* of guilt, which he might afterwards resort to as a *ratification* of his own *proceedings*. Happily, though with ruin and famine before his eyes, Boles escaped the snare that was laid for him.

Allowing, however, that there was *nothing* of artifice or fraud in the proposal, does it not shew, that the offence of Major Boles did not wear in the eyes of the Governor the colours of turpitude in which he has laboured to clothe it? Does it not look as if there was some misgiving in his breast; some feeling, which, more akin to remorse than repentance, whispered to him, that he had gone too far in the first transports of his fury; that he might as well undo what he was too proud to retract, provided he could persuade the poor staff officer to take back his place in the service, on the easy condition of uttering with his lips that which his heart denied; of disentangling himself from honour and conscience, and merely acknowledging himself *unworthy* of all social esteem or public trust?

That it was a hasty measure, even his trusty

Judge-Advocate more than implies, in the opinion which Sir George Barlow, after the measures had been adopted, requested of him concerning their legality. "The President in Council," says he, "on finding that the first copy of the order, which he had occasion to see, was counter-signed by the Deputy Adjutant-General, *immediately* declared that officer suspended from the service."

If this be a faithful picture of the transaction, the violence and fury of despotic power are painted to the life. The first glance of the Governor on the paper, was an instantaneous sentence of ruin on an officer who had signed the order of his superior. What, no inquiry? No consultation with the gentlemen who by courtesy are called his council? None. The nature of the proceeding, then, is here depicted by one of his partizans, while he is actually employed in the humble duty of sweeping away the filth and rubbish from the precipitate policy of his employers, and dressing it up into some shape and colour of legality.

Advert then to the powers exercised in this

instance by Sir George Barlow. An order, reprimanding an inferior officer for insubordination and breach of discipline, is issued by the highest military authority. In the ordinary course, it becomes the duty of a staff officer to sign and circulate that order. He is suspended from the service for that act, without trial. The relation, from that time, between the suspended officer and the Government, is changed. The Government has done its worst. The officer is ~~out~~ of the service. The Governor incurs a responsibility from this act of authority, which must in reason and justice bear a due proportion to its severity. But in the case of Boles, the power is exercised, and an attempt is made to evade the responsibility. The power, therefore, which is thus asserted, is self-derived, not delegated. He may suspend, if for one day, for months, and for years, and restore in his caprice and at his pleasure, or so soon as the fumes of drunken authority shall be dispersed. For the sake of the argument only do I admit that he has any legal authority at all, to suspend military men

without military trial; a concession, which, as I shall prove hereafter, is not only at variance with the language of most of the statutes framed for the government of India, but contrary to the spirit of them all.

The full measure, however, of severity, was not yet poured on this unfortunate officer. By his suspension from the Company's service, he could not be legally detained in India. Deprived of the ordinary means of support, it became therefore a matter of strict prudence and necessity to him to leave that country. The *Lushington* was about to sail for England. He procured a passage on board of her, and as the Company's permission to embark in their ships is an usual preliminary, he requested that permission of the Government by several formal applications, stating the object of his voyage to

\* This is the substance of an admirable piece of reasoning, contained in a letter written on the suspension of Major Boles, by the Honourable T. Maitland, Governor of Ceylon at the period of these transactions, in reply to a statement made to him by a person in the interest of Sir George Barlow. The whole of it is exquisite good sense, conveyed in neat and appropriate language.

England to be that of submitting his case to the Court of Directors. These applications, though repeatedly made, were for some time unnoticed; but on the 18th of February, a letter from Mr. Buchan intimated to him that the leave he applied for was *refused*. It would not have been exactly in the spirit of this lofty Government to have assigned a reason for an act of such gross oppression.

Some trifling sacrifice of consistency and character may be discerned in this procedure. If Boles had committed an offence dangerous to the discipline of the service from which he was suspended, (the only legitimate or rational ground for his punishment,) it could answer no end of policy or justice to keep him starving in India, amongst those who must have been naturally prone to overlook his delinquency, whilst they commiserated his sufferings. It seemed, therefore, to be dictated by a mean spirit of disappointed revenge, which found a miserable satisfaction in keeping its victim as long as it could, to be the play-thing of its caprice, whom it could not crush by its malice. The ship sailed

on the 28th of February, freighted, as is well known, with the calumnies and misrepresentations of which Mr: Buchan sailed as a species of supercargo. On the 4th of March, three days after her departure, Sir George Barlow granted Boles the leave which he had unfeelingly and insolently refused him ; that is to say, he permitted him to embark for England, knowing that no ships were likely to sail for several months ; and then violently transported him to Bengal, distant nearly a thousand miles from Madras, to be sent home by a vessel about to sail from that port.

Hitherto it is not pretended that the army had manifested any thing approximating to insubordination. The tortured limbs had writhed, but the whole frame was yet sound and unconvulsed. It is true, that a general discontent, and a personal hatred of Sir George Barlow co-extensive with it, existed ; for how could these things have been viewed without emotion by a large mass of men, who are necessarily connected by a communion of interests and of feelings ? But that dulness of apprehension must be past remedy, which

can be deluded by the absurd calumny, that those discontents derived their origin from the abolition of the Tent Contract, or any other species of economical retrenchment. The army of Madras, distinguished as it is by every title of honour that can dignify and adorn a body of men and soldiers, would have abdicated all claim to respect for their character, or sympathy for their cause, had they been indifferent to the unmerited sufferings of their brethren, and the arbitrary overthrow of all that rendered military life safe or respectable. They did feel as an insult to the body, the tyrannical punishment of individuals. It is to their honour that they so felt. It is still more to their honour, that they abstained from the expression of it, till Sir George Barlow let loose upon them the remorseless series of measures, which drove them into procedures from which, though in their principles and motives purely defensive, he has derived his strongest, and indeed his only justification; if that can be called a justification, which rather proves the acts of the army

to have been wrong, 'than his own to have been right.

Here, then, was a time for kindness and conciliation. By proposing to Boles a slight acknowledgment as a condition of his restoration, it is plain that Sir George Barlow, not quite satisfied with what he had done, was willing to evade the odium and unpopularity of the measure, if it could have been done on his own terms. Pride, however, the pride of him who cannot forgive because he has injured ; the pride of a diminutive and revengeful mind stood in the way of that conciliation. They who know the state of things at this time, will admit that it would have been of potent efficacy to heal every wound, and appease every inquietude. But to the views of this unhappy gentleman, bounded within the narrow horizon of a contracted education, that horizon, too, bedimmed by his passions, there was no mean between the abject surrender of his authority, and its lawless and wanton exercise. It seemed as if he considered what had already taken place was not

enough to irritate the army, and that no time should be lost in giving them something more substantial to complain of.

Faithful to this enlightened maxim, he continued his task of proscription. Lieutenant-Colonel Martin, one of the officers commanding corps, who had signed the charges against Munro, having obtained the permission of Government to embark in one of the ships which sailed in February, and, on the faith of that permission, having actually paid for his passage, received an intimation, that he would not be suffered to leave India. The ship sailed without him, and his passage-money was forfeited. The secret reason for the detention of this officer, was the signature he had put to the charges delivered in against Munro. At length, however, the Governor was pleased to permit him to return to Europe, giving no reason for detaining him, but reimbursing him, at the expence of the Company, the sum which he had paid for his passage. Captain Marshall, who held the important office of Secretary to the Military Board, was removed from his respectable duties and its

emoluments, to the comparatively insignificant function of paymaster at a distant garrison. The character of this officer stands not in need of panegyric. Unwearied in his zeal for his employers; severely faithful to his trusts; his promptness of talent and ardour of diligence had deserved and obtained the confidence of former Governors. No man was more esteemed or beloved by the army. His crime was unspecified; but it is conjectured, that in the confidence of the social hour, he had uttered some offensive remark on the occurrences of the day, which had been reported to Sir George Barlow by one of the spies, by whom the retirements of private life were at this time beset. The degraded officer in vain petitioned to be heard in his defence, or to know his accusation. As usual, the petition was received with contemptuous silence.

It has been already observed, that the unpopularity of Sir George Barlow was not confined to the Company's army. The officers of his Majesty's troops did not abstain from the utterance of sentiments equally strong upon his measures, and his character. This circumstance,

which is susceptible of strict proof, and is known to all who were then at Madras, may appear problematic, when the demeanour of the Government to those services is contrasted. Upon the punishment of Major Boles, the King's officers quartered in the garrison testified feelings, which far exceeded in vehemence and warmth of expression, those which had been uttered by the Company's; and it does no little honour to the delicacy of Major Boles, that he avoided, more than once, public manifestations of their sympathy in his cause, by refusing their invitations to dinners, intended to have been expressly given him. They declined the invitations of Sir George Barlow to the Government House. A toast was given at their mess by the commanding officer, strongly declaratory of the contempt and hatred in which the person of the Governor was held.

But these disorders in the two services required, it seems, different remedies. A game was to be played, which, little versed as Sir George Barlow has shewn himself in the great volume of human nature, proved him not wholly

unread in that corrupt page of it, which teaches the mode of overpowering former motives of conduct by the infusion of new ones. As new severities were preparing for the officers of the Company's army, it became a necessary policy to dissociate them; to sow the seeds of jealousy and disagreement between them, and, if possible, to render the one the means of effecting the ruin and demolition of the other, by holding out to the King's service, as a reward for their support, the emoluments of which the Company's service were to be deprived. This plan has been faithfully adhered to in the progress of these transactions.

The officer, whose influence was most dreaded, and who, to the knowledge of Sir George Barlow, had proposed the toast just adverted to, was complimented with the command of the Fort, and a large salary; an office which had been expressly abolished by the Court of Directors. The result was a natural one. The language and sentiments of this person underwent an instantaneous change; and he atoned for his former errors with the zeal and enthusiasm of recent

conversion. In a few days, he proposed at his mess the health of Sir George Barlow as a toast. Every officer of the corps of course refused it. They were immediately told, that they were ordered to drink it by their commanding officer, and that he considered and would represent their refusal at head quarters in England, as an act of insubordination. The obnoxious toast was crammed down their throats.

On the 3d of February, Sir George Barlow invited each officer of the corps to dinner. Each of them declined the invitation. The Colonel, however, urged them, as a point of military duty, to retract their answers; and on being asked, whether they were his orders as commanding officer, he told them that they were. They obeyed; and the Governor of Madras enjoyed the luxury of receiving twelve guests, who sat at his table with a sort of funereal solemnity, refusing to partake of one dish, or to drink one glass of wine.

The situation of Sir George Barlow was now little to be envied. He had indulged his temper and his resentments at the ordinary price of

such gratifications; the contempt and hatred of all but the few who had been joined with him in his exile from social life. "Though "the source and fountain of all promotion," as it has been truly observed,\* "not a civilian "or a soldier could be induced to pay more "than a customary compliment or courtesy to "his office, while his house and board were deserted of all but his very retainers. His particular invitations are rejected, and he finds himself at once the head and outcast of society."

The comfortless and dreary condition to which he was thus reduced, is the real origin of the subsequent perseverance in his system, which has shaken India to the centre. He had resolved from this time, "to humble" the coast army. This was his language. These were his counsels. I do not make this statement lightly. It rests on the authority of one to whom he disclosed at this time the workings of his mind. The means by which this vindic-

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\* Asiatic Annual Register for 1809, vol. II. History of British India, p. 72

tive scheme was to be executed, were the jealousies and antipathies between the King's troops and the Company's, which, from the competition always subsisting between those establishments, might have been awakened by a less expert master in this sordid and crafty policy. This was the outline of a system, which an attentive observation of events will shew to have been faithfully and fatally pursued.

In this spirit, and with these objects, he declared war with the whole community. His power leaped over the fences of private life; boundaries which the wildest despotism has frequently found it prudent to respect. Men were to eat by rule; to laugh by law. Invitations, accordingly, in the name of Lady Barlow, flew around the settlement. They were pointedly and designedly sent, where, from secret information, it was well known they would be refused. They were proposed as a species of test, and the penalty of rejecting them was banishment from their stations, the displeasure of the Governor, and the ruin of families. These inconveniences

were endured with a spirit almost amounting to that of martyrdom. The officers of a battalion then stationed in Fort St. George, were marched, at a most unfavourable season, with their unoffending seapoys, to Goa, a station expressly selected because it was unhealthy. A military academy instituted by Lord William Bentinck, and approved of by the Directors, for the preparatory instruction of the cadets in the studies of their profession, was dispersed, because eighteen or twenty boys had refused to wait upon Lady Barlow.

Fancy cannot conjecture a state of things more disgraceful and humiliating. But the contemplation of it is happily not destitute of instruction. It shews the folly of every attempt to govern by a system, which wars with the feelings and affections of man. The splendid solitude of Sir George Barlow, which is not brightened by an unforced smile, nor approached without a secret terror, is sufficient to console even the victims of his oppression. Condemned to their garrets, pining for bread, they feel a tri-

umph to which he is forbidden to aspire. The moral order is so adjusted, that even in prosperous and unpunished oppression, there is at once an example to shun, and a spectacle to commiserate.

Hitherto it is clear that the army had cherished only the silent and passive discontents which had been provoked by the Madras Government. Let us rapidly contrast down to this period, the conduct and demeanour of both parties. In January, 1809, the officers of the Madras army forward to the Government,\* through the channel, and with the recommendation of the Commander in Chief, a memorial to the Court of Directors, which enumerates in governed language various grievances, and prays for Bengal allowances, and a participation in the Bazar fund. This memorial, though neither novel in respect of usage, nor irregular in form, nor exceptionable in phrase, Sir George Barlow refuses to transmit to England. The jurisdiction of the Commander

\* No. 1. Papers printed for the House of Commons, Madras Army, p. 25.

in Chief is subverted', and an officer, who had aspersed the character of the most respectable officers of the service, released from arrest under charges preferred against him by those officers. The Adjutant-General and his deputy punished without trial or inquiry, for an act of military obedience. Military law abrogated, by the infliction of the same summary severities on others, without the intervention of proof or judicature, and this proceeding founded on fallible information derived from the foulest sources, and often on no information at all; a grievance which, though hitherto felt by few, impended over all. For the most exemplary conduct was no protection, if the temper of Sir George Barlow was accidentally disquieted by anger, or disturbed by suspicion.

On the other side, what did the army oppose to this outrage? Without one act of insubordination, or one movement of resistance, they *project* a memorial (for no memorial was ever sent) to the supreme Government, in which their grievances and feelings are strongly, perhaps too strongly, delineated; and several offi-

cers sign and circulate an address to Major Boles, in which they pledge themselves, to contribute a pecuniary support to a brother officer, who was then in a state of indigence. As Sir George Barlow made this memorial and this address the pretext for still more extended and aggravated severities towards the army, it will be necessary to consider the objections that have been taken to them. First, it must be observed, that a memorial to the Court of Directors had been rejected by the Madras Government but a short time before, although it merely complained of regulations, which the Court of Directors themselves had sanctioned. It was less probable, that a memorial, which remonstrated against the oppressions of the local Governor, would be forwarded by that gentleman to England; and had he vouchsafed so to have done, the remedy would have been too late for the evil; for that evil was progressively and hourly in action.

The memorial sought not future redress, but immediate interposition. Having no other refuge, they betook themselves to the Governor-General, under the impression, that it was within

his official competence, to protect them from the resentments of the subordinate Governor. It matters not, that they attributed to Lord Minto powers, which the legislature had not given him. Correct interpretations of acts of parliament, or precise notions of the limits of civil authorities, cannot be required of a large body of men writing under a strong sense of grievance and injustice. It is chiefly important to inquire, whether the act of memorializing, (admitting that act to have been a consummate, not an imperfect act,) was with a reference to the times and the conjuncture, criminal, or mutinous.

As it is from circumstances that any act derives its moral qualities, it would be peculiarly unfair to exclude them from a question, of which they evidently form the most essential ingredient. These circumstances have already been stated. If they constituted a real grievance, they conferred the right of complaint. This is the most obvious issue, to which the subject can be brought. If Sir George Barlow had neither insulted nor injured the army; if he had broken through no military usage, nor violated one

military right, the non-existence of the grievance would have imparted to the projected memorial a character of revolt and combination. He, however, who asserts the grievance to be imaginary, at once begs the question, and shuts his eyes to the fact.

But they who decry the memorial, despairing of a successful vindication of Sir George Barlow, have endeavoured to shelter themselves within the broad and indiscriminate denial of the right of the army, to memorialize at all. This exception has been urged by Lord Minto in his laboured letter to the Madras Government; and he styles the paper, “a clamorous demand en-“ forced by the combined and united voice of “ the army\*” in reference to its title, which bespeaks it to be “ the respectful Memorial of “ the Officers of the Madras army.” This objection he illustrates by the salutary rule of the British Legislature, which rejects “ every peti-“ tion preferred in the name of any body, or

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\* Papers printed for the House of Commons, I. N. 3. p. 3.

“ description of men not incorporated by charter, “ though the same petition, with the same signatures, purporting only to be presented by the “ petitioners in their individual capacities, would “ be received without objection.” It is, therefore, obvious, that the objection is one of form, not of substance. For it is evidently conceded by his Lordship, that individual officers might have represented their individual grievances.

But if a number of individuals complain of the same grievance, the implied threat or intimidation, must be as evident from the uniformity of the complaint and the numbers concurring in it, as if the complainants petitioned under a collective designation. If individual officers had petitioned against a general grievance, they would have been liable to the objection of having assumed a delegated character or commission, or punished as individuals, who had dared to censure the acts of their superiors. The objection therefore goes radically to any remonstrance or memorial, against any injury or any grievance. But Lord Minto does not deny the right of remonstrance

*or petition.* His objection goes no further than the informality of the title, which may be readily conceded to him, without admitting the imputed criminality of the memorial.

Whatever may be objected against the policy of receiving or encouraging petitions signed by aggregate descriptions of men, it is obvious that the objection involves a train of artificial reasoning, of which minds smarting with the sense of suffering are rarely capable. Even allowing both law and usage to be hostile to the practice, it would be pedantry to deny, that conjunctures may arise, and extreme cases occur, in which neither law nor usage can operate. The true and only criterion is the magnitude of the evil. Where the complaints are suggested by light and trivial grievances, a general petition would be wisely discountenanced by the law and the usage of the service; because the frequency of trivial discontents ~~or~~ partial grievances would render it an inconvenient course of proceeding. But in the extraordinary case of the persecution and oppression of the whole body, the size and rarity of the evil constitute

a new rule. Nor are instances wanting, where the King and the Court of Directors have not only received the memorials of the whole army in the East Indies, but lent a favourable ear to them.

But neither law nor usage is against the memorial. There was no inhibition against it. A sort of usage had grown up in favour of this practice amongst the troops employed in that distant part of the King's dominions; an usage in a great degree incidental to the constitution and frame of the Indian army. With several precedents, therefore, recent in their recollection, of the favourable reception of general memorials, upon matters of comparatively light concern, a number of officers projected an address to the supreme Government, on a state of things amounting to a complete revolution in military affairs. It cannot be denied, that the rough sketch of this intended memorial contained much reprehensible phrase. It was expressed in language too swelling and indecorous; and there was a total want of courtesy towards the author of their sufferings. But its prayer, which merely implores "the gra-

“cious interposition of the Governor-General,” is strictly defensible, if the grievances it represented were not fictitious or exaggerated.

Minds tinctured with candor will not demand from men under irritation and alarm, a nicely modulated tone of diction; much less an artificial arrangement of topics. Considered as the paper of soldiers, it would disarm a severe criticism, if it bore the stamp of rough and vehement feeling. But it will be found free even from this exception. It states the violation of military law in the release of Munro; the removal of the staff officers without trial or enquiry to be a virtual repeal of the articles in war; and these measures are not so much the specific subjects of complaint as the manner of their execution and the collateral indignities with which they were attended. It states a well-founded apprehension that the prosecution of these severities will alienate the minds of the army, and by the natural operation of violent councils, terminate in the most deplorable calamities. It contains no threat. It merely anticipates a consequence.

The exclusion of the Commander-in-chief from the council does not in this projected memorial stand in the list of grievances. A miserable fallacy both of statement and of reasoning\* has fastened upon it this imputation. But the topics of complaint are exclusively against the local Government. General Macdonald's exclusion was an act of the Court of Directors in England; and it is merely stated in the memorial, as one of the probable causes of the evils sustained by the army; inasmuch as it might naturally have been expected, that the army would have been better respected by a Government, of which a military man was a member.

It is however from the *prayer* of the memorial that its purposes are to be most accurately collected. It calls for the interposition of a controlling authority 'to stop the violence and suspend the oppressions of the subordinate one.'

\* Lord Minto's Letter to the Government of Fort St. George, 27 May, 1809.

It is not redress which they demand, but delay which they supplicate. The merits of the remonstrance, therefore, must be decided by the character of the grievances. If it appears that Sir George Barlow had oppressed the army, the memorial, taken as a mature and finished, instead of a projected remonstrance, would neither deserve the imputation with which it has been branded, nor justify the measures with which it has been followed up. For in what schools have they been trained either for policy or justice, who deny to a large body of men, the constitutional privilege of betaking themselves to a superior authority, to supplicate, through his interposition, that his subordinate would for a while be less prodigal of illegal punishment, and relax a little of the industry with which he was torturing partial discontent into general resistance?

But the animadversion, which might have been due to their memorial, considered as a measure actually adopted, can with no justice be applied to one that was only in contemplation, and afterwards abandoned. Even in cases

of strong and marked delinquency, there is a wide discrimination between the judgment passed on acts which are inchoate, and those which are absolute. Judicature, which is reason operating by rule; humanely admits the possibility of the relinquishment, (*the locus pænitentiae*, as it is called,) in any part of the interval between the contemplation of the crime and its accomplishment. Otherwise the whole order of justice would be subverted.

It is, therefore, essential to the vindication of the army in this stage of the quarrel, to state that the memorial was never acted on, but abandoned, as soon as it was perceived that the authority to whom it was addressed, had been pre-occupied by the local government. This curious fact is stated by Sir George Barlow himself, who rests his justification of the violences and severities of the 1st of May, on this very memorial, which he at the same time admits to have been abandoned:

“ If the promoters of this memorial, he says, “ had persisted in their original design of for- “ warding it to Lord Minto, a complete dis- “ covery of the parties to it would of course

“ have been obtained; but from the decided  
 “ approbation of the measures of this govern-  
 “ ment, which his Lordship is now publicly  
 “ known to express, it cannot be presumed that  
 “ they will carry their intention into effect.  
 “ The information indeed, which I have lately  
 “ received, affords every reason to believe that  
 “ this intention *is almost, if not wholly, aban-*  
 “ *doned.*”\*

The upright and dignified principle on which Sir George Barlow deals out punishment and proscription, will be manifest from another passage in the same document, undeniably showing, that he considered the mischief against which he was acting, to be wholly at an end; but that he was chiefly anxious that it might go far enough, to bring the unfortunate officers within the snare he had laid for them.

“ As I had reason to believe, that the spirit of  
 “ dissatisfaction was not gaining ground in the  
 “ army; it did not appear that any danger  
 “ was incurred by waiting hitherto for fuller

\* Papers for the House of Commons, vol. 1. N. 2. A.

“ proof as to the ‘individuals, who had been  
 “ concerned in signing or promoting the circu-  
 “ lation of this paper.”

It was punishment only that he required. Give him his victim; gorge him with his prey; and the virtuous Governor of Madras is satisfied that the mischief should proceed, and the guilt be incurred. “ Let us take the law on our “ sides: let them begin.” He has no anxieties about the quiet and composure of the empire. He is calculating behind his counter, with a kind of mercantile precision, on the quantity of punishment which a few weeks will produce; balancing so much punishment and so much misery against so much passion, or so much discontent; and enjoying the secret anticipation of an usurious payment in a more diffused wretchedness and ruin. I have used his own words, as the commentaries of his acts. If wolves reasoned, such would be their maxims.

If it has been shown that the memorial, whether considered as innocent in itself, or as an act relinquished and cancelled, afforded no fair ground for the severities of the Madras Govern-

ment, the address to Major Boles, which is the other provocation pleaded by Sir George Barlow, will not strengthen his case. It is to be observed also, that there were various addresses to that officer containing promises of pecuniary aid, and expressions of commiseration for his misfortune; each of them varied in language and in sentiment; the spontaneous workings of the heart for the unmerited sufferings of an honourable and respected man. There was no combination to support him against the government; the construction, which Sir George Barlow has laboured to fasten upon an act of mere sympathy and kindness.

Boles had broken no law. He had been tried by no law. His suspension, which was inflicted on him by an arbitrary mandate, left him without the means of life. Miserable indeed must be the cause of that government which requiring the current of human feelings to be turned aside from their course, interprets into resistance to its authority the kindly sentiments of the soul, moving in obedience to nature, reason, and religion. Various corps and societies did, therefore, vote a

relief to this persecuted gentleman. I record the fact with pleasure. To have abandoned him under such circumstances to penury or the mercy of his oppressor, would have been the abandonment of all honour and principle, and by implication an acknowledgment of the justice of the procedure against him.

If any inferences are to be deduced from what has been said, they are these; that hitherto the army of Madras had acted purely on the *defensive*; that military law and the rights of the army having been broken up, they had remonstrated, or rather projected a remonstrance; that they had ~~shielded~~ an officer whom Barlow had punished for the execution of a military duty, from famine and ruin; and that under these circumstances it would have been prudent to have suffered the discontents to have expired, instead of inflaming them into actual resistance by a series of punishments amounting to a proscription. But this safe and prudent policy, which a wise and virtuous man, who did not carry the feelings of a *personal* quarrel into the dispute, would have adopted, was of course not chosen by the Gover-

nor of Madras; and the merciless order \* of the 1st of May, 1809, was issued.

Perhaps the proximate cause of this measure would be found in the approbation, which the Governor General had given to the release of Munro, and the suspension of General Macdouall. In this letter, dated the 28th Feb. 1809, his Lordship unconditionally approved of those measures, and without any inquiry into the case, adopted the very arguments which Barlow had used in his own justification. Although he had not even glanced at the suspension of Boles and Capper, it was inferred from his silence, that he did not condemn them. The Madras Government, therefore, began to take as it were upon credit, the future and indiscriminate support of the Governor General. By a masterpiece of low cunning, they had drawn him into the controversy, not as a judge, but as an advocate; and they calculated, not unreasonably, on the paternal fondness of weak and pedantic men for the errors which they have verbosely defended.

\* Papers for the House of Commons, N. 2. A. p. 22.

To Sir George Barlow, the 1st of May was a sort of jubilee of revenge. For let it not be forgotten, that this act of proscription was not impelled by a sense of danger, nor the overruling pressure of an impending evil. It appears from his own confession, that the spirit of dissatisfaction (as he calls it) *was not gaining ground in the army.*\* The memorial, I have already shown, to have been wholly abandoned. The order, therefore, of the 1st of May, stands recorded as the retrospective punishment of an act which had been already abandoned, without leaving any perceptible effects behind it. Every thing was subsiding into its former settlement. It was at this season, when a good man, or a wise statesman, would have abstained from a vindictive policy (a policy, always criminal when it is unnecessary), that the Governor of Madras published to the army, while their recent wounds were yet green, a table of proscription against their most virtuous and beloved officers. This proscription

following upon the track of his antecedent measures, was the cause, and the only cause, of the subsequent revolt.

It excited a sensation corresponding to its outrageous violence and gross injustice. The whole body heretofore under a government of law and justice, felt that these privileges were at one blow annihilated. The consequences were only the natural reaction of that blow. I lament and blame those consequences. But I cannot repeal the ordinances of nature. The first feature of this order is its gross inequality. Admitting it for a while, to have been a legitimate judicial instrument, the moral taste revolts at the wild and incoherent denunciations of the same punishment on various degrees and species of delinquencies, all jumbled into the same category. Principals and accessories; those who are stated to have written the memorial, and others who were only concerned in it; some for not having prevented, others for having actively promoted its circulation; others for having signed the address, pledging themselves to the pecuniary assistance of Major Boles, and in

the very same sentence, in which it is acknowledged to have been a minor offence. Not the faintest colouring of equity appears, in this mass of punishment. Circumstances that give to acts their qualities, the extrinsic considerations that mitigate the stern offices of justice, when it is decently administered; are all excluded from this farrago of spite and dulness. It is greatly irreconcileable to the judicial character of this paper, that it was issued by the Governor of Madras as a judge in his own cause. He, the accused, and by consequence the irritated individual, against whom a large body of men (taking the memorial to have been acted on) had preferred to a superior authority, the accusation of having broken and abused his trusts, is here sitting as a criminal judge on the merits of the complaint, and indirectly on the very acts, whose quality is to be decided on the appeal.

By this order, Captain Marshall, then at Vizagapatam (to which station he had been removed from his staff employment at the presidency without any specified, or hardly any imaginable cause), and Lieutenant Colonel

Martin, are suspended for having been principally concerned in preparing and circulating the memorial. The Honourable Lieutenant Colonel St. Leger, (then in Travancore,) and Major de Morgan, are included in the same sentence, for having actively promoted its circulation, with Captain James Grant who had signed the address to Major Boles. Lieutenant Colonel Robert Bell, commanding the artillery at the Mount, is deprived of his command, and its emoluments, for having circulated (as it was stated) the same address amongst the officers of his corps, although he had never seen it.

Lieutenant Colonel Chalmers, commanding in the south of Travancore, and Lieutenant Colonel Cuppage, recently appointed to the office of Adjutant General, officers of high desert and character, are removed, the former from his command, the latter from his staff appointment, for the negative offence of "having *appeared* to "have taken no steps whatever either to repress "or report to the Government the improper "proceedings." Captain Coombs, assistant Quarter-Master General in Mysore, is degraded

from that situation, on the vague charge “ of “ having been concerned in these reprehensible “ proceedings.”

Of these officers, four, viz. Lieutenant Colonel St. Leger, Major de Morgan, Captain Marshall, and Captain Grant, are ordered to hold themselves in readiness to proceed to England. They were in effect banished. Colonel St. Leger was ordered to the presidency, that this sentence might be carried into effect. But Sir George Barlow's merciless appetite for punishment was not yet sated. Another order\* follows the next day, and Captain Smith, Major Keasbury, Major Muirhead, and Major Hazlewood, are degraded from their respective commands on the allegation of “ their “ not having exerted themselves in maintaining “ order and discipline in their respective corps.” Of these punishments, the temporary Commander in Chief acts as the executioner, by the express deputation of his master conveyed to him by letter. He is simply requested to remove the specified delinquents, without any directions

\* Papers printed for the House of Commons, N. 2. A. 24.

to inquire, or hear, or examine. It was further comprised within the duties of this commission, that he was to remove a most respectable and beloved officer, Lieutenant Colonel Rumley, from his regiment of cavalry, for this well defined, clear, and intelligible offence, "that his conduct had been for some time unsatisfactory."

He must be dull indeed, that does not trace in these procedures a most unseasonable system of punishment, adopted at a time when punishment rarely answers its legitimate ends, because it seems rather a vindictive assertion of power over a vanquished party, than the grave ordinance of justice. It would have been at least politic to have waited the complete return of tranquillity to which every thing was tending. Sir George Barlow might then have indulged his taste at a cheaper price, and distributed without proof, or even against it, indigence, and ruin, and famine, as it seemed good to him. But he seems to have been apprehensive, lest the army, by its return to its ancient composure, should gain a title with the authorities at home to a fair and equitable hearing; and therefore to have given

them abundant motives to disaffection, in order to have that disaffection ready to justify his oppression.

That nothing might be wanting to sharpen the sensations of the army to this proceeding, Lieutenant Colonel St. Leger was ordered to the presidency under every circumstance of studied indignity. He was suddenly called from Travancore, the theatre of his victories, to the presidency. While he was obeying this order, he received another at Madura, where a severe indisposition had obliged him to halt, directing him not to proceed to Trichinopoly, but circuitously by the sea-coast to Poonamalie, a place of confinement for French prisoners; and as if this was not sufficiently offensive to his feelings, it was specified that if he hesitated obedience, he was to be marched under a guard to that station. Here he first learned the alleged crime, for which he was exposed to all this insolence of power. His humble applications for an opportunity of defence, or a specification of the evidence against him, were of course disregarded.

The prohibition which ordered him not to

proceed in the direct road, in pursuance of his original order, may at first appear rather mysterious. But Trichinopoly, which was in the direct route, was the place of Colonel St. Leger's residence. His domestic establishment, and a great part of his personal property, were there: and had he been permitted to have gone thither, he might have diminished the pecuniary loss of a sudden departure from India. This did not escape the Governor of Madras, by no means an unskilful professor of the art of tormenting. At Poonamalie, the resolution of Sir George Barlow was intimated to him, that he was to proceed to Calcutta, and that a ship was detained to convey him to that settlement. It was, however, at last, but with a bad grace, permitted him to visit the Presidency a few days, for the purpose of making some arrangements for this voyage. In a short time afterwards, these gentlemen were ordered on board a vessel bound to Bengal. They were there to wait the protracted and uncertain chances of a ship for England, as if it had entered into Sir George Barlow's calculation, that the intermediate expence of subsist-

ence in a place where they had no connections, would sharpen the punishment already inflicted on his impoverished victims.

Colonel St. Leger thus proclaimed as a traitor and mutineer, while all information concerning his supposed offence was denied to him; about to be forcibly sent home without the materials for his defence against the inventive obloquy and fictitious statements of his accuser, consulted a professional gentleman. He was advised to proceed against Sir George Barlow by a civil action. This was practicable by the wise provisions of an act passed in the 21st year of George the Third, remedial of oppressions and injuries committed by the Governors in India, who are exempted from the jurisdiction of his Majesty's Courts by their respective charters. The statute enables the injured party to demand copies of the orders of Government, and to take the examinations of witnesses, which being authenticated by the supreme court, are to be deemed good evidence in the Courts at Westminster; the plaintiff making oath of the matters complained of, and giving security to prosecute

the complaint within two years of the return of the defendant into England.

The affidavit was duly sworn, and Colonel St. Leger began to prepare for the necessary examinations of witnesses, and to instruct his counsel, when he received an unexpected order to embark. He immediately applied for longer time, to complete the preliminary steps to the suit he intended to institute, protesting against a forced and hurried embarkation under those circumstances. This application was ineffectual, and he was forced on board, before he could even procure the necessary security required by the statute. The plaintiff being thus removed, Sir George Barlow proceeded to the examination of his own witnesses. The order of the 1st of May therefore, and the mode of its enforcement, as it operated on this gentleman, were not merely inflictions of arbitrary punishments, but the deprivation to a British subject, of a legal remedy given him by the legislature. The constitution and law of England would be senseless sounds, if such a proceeding was followed by no criminal consequences.

Absent, unheard, deprived of the privileges permitted by British law to the meanest malefactors, some of the victims of Sir George Barlow were yet complimented with a miserable mockery of an examination of witnesses. On the 11th of April, 1809,\* five Portuguese writers belonging to the office of Captain Marshall, were seized and ushered into a secret conclave, at which the Governor was present. But even from these intimidated and trembling wretches, from whom every artifice and trick was employed, to extort evidence unfavourable to their employer, they obtained nothing that supported the inference, on which he had already determined to act. Yet in a private letter written on the 10th of April (the day before) to the Governor General, and which letter was afterwards forwarded to England, as evidence against that officer, the Governor of Madras asserts the deliberate falsehood, that he had at length *discovered that Captain*

\* See the examination (so it is called) of these witnesses. Papers printed for the House of Commons, 1. N. 2. A. p. 8.

*Marshall was the author.* This *private* letter was written for the express purpose of supplying the testimony he had failed in obtaining against this unfortunate officer. It was forwarded to the then Chairman of the Directors. It was by him with equal delicacy and honour pressed against Captain Marshall, though it was falsified not only by the examinations of the Portuguese writers, but by the Governor's minute of the 1st of May itself, in which so far from speaking of the fact as established or discovered, he expresses himself concerning it in language of the most indefinite conjecture.

Is there any thing that can heighten the distaste of every rightly framed mind to these violences? If there be, it is this mockery of a judicial examination, where the clumsy patch-work of some of the forms of an inquiry serves only to expose the coarse texture of the rest of the proceeding. The other officers, however, who felt the stroke of this order, were not complimented by Sir George Barlow even with this secret inquiry. The testimony on which they suffered,

is to this hour locked up in the gloomy recesses of his own bosom.

Let it be distinctly perceived, that I am reviewing these abuses of authority as fit subjects of criminal animadversion. If an authority, though given by law, when vexatiously, and arbitrarily exercised, falls within the fair scope of that animadversion, the position will, *à fortiori*, become applicable when it is assumed in violation of the law. The power exercised by Sir George Barlow in these instances is manifestly contrary to law, because it is enacted by none. No intendment; no implication can supply an authority so severely penal. The power of the Governors of India is not inherent in their persons, or their office. It is the creature of the legislature. The successive acts for the government of India, define their authority and its limitations. And not one of those acts will justify a Governor in sending an officer or soldier to England but by the sentence of a court martial, and according to "the rules and articles of " war for the better government of the officers

“ and soldiers in the service of the East India Company.” These articles were framed in pursuance of the 27th George the 2d. c. 9. which is in the nature of a perpetual mutiny act for India, and constitutes with those articles the only penal judicature, to which the Company’s army are subject.

Whatever powers the heads of the Company’s factories before the year 1754, (the date of this act) in the absence of a regular jurisdiction, might have exercised over their army, they were then wholly taken away. Nothing is certain in jurisprudence, if this be not true; that when a special jurisdiction is created for the trial of offences, it annuls all indefinite arbitrary judicature existing by virtue of general powers. Nor can any person supply a real or imagined defect in such a jurisdiction, by supplemental punishments dictated by his own resentments, and his own feelings. This *merger*, as it were, of arbitrary and general indefinite powers, is confirmed by the whole analogy of our law. By the common law of the realm, the

Admiral had jurisdiction over piracies at sea. But by the statute of Henry the Eighth, erecting a specific commission for the trial of those offences, that jurisdiction was abolished. And in India, the statutes erecting courts under the royal charters, repealed the former civil and criminal jurisdiction exercised by the governors and their council.

The 27th of George the Second, and the articles made in pursuance of it, were expressly framed for the maintenance of discipline in the Company's forces. They enumerate the whole series of military offences; they prescribe the process to be had on them, and their punishments, whether specific or discretionary. Other offences not of a military character are handed over to the regular courts. Is there any defect in such a code, which requires the interposition of extra-judicial punishment, or any provision which would justify that interposition? If the defect exist, the legislature must provide for it. But there is not a word in the act, nor in any other, which will justify the Governor of

Madras, in having taken the officers, whom he sent to England, out of the regular course of judicial trial. It was a disturbance of justice; a violation of the law.

The statute thus framed for the support of discipline, had also it may be presumed purposes beneficial to those, who became subject to its provisions. It imparted the benefit of a regular and judicial, instead of a vague, and summary inquiry; a definite rule of action, in place of an unsteady discretion. That the legislature did not exclude from their view the safety of the accused, may be inferred from the seventh section, where it is enacted, in conformity to one of the most admired maxims of British jurisprudence, that no person shall be tried a second time for the same offence. But the procedure of Sir George Barlow subverts every maxim of justice. If he is enabled to punish by suspension and relegation to England *before*, he may exercise the same power *after* a trial by court martial; and take an ulterior cognizance of the offence, when the court martial has done with

it, and its sentence has been executed. In one instance,\* (I shall comment upon it hereafter) this authority has been actually assumed.

He who asserts this right of extra-judicial cognizance is bound to point out the statute that creates it. Till then, I am entitled to assume that the provisions of the 27th of George the Second remain an unrepealed and standing code of law for the trial and punishment of military offences in India. But the banishment of the officers, by forcibly sending them to England, is as inconsistent with the policy and spirit of the statutes for the government of India, as if it had been *in terminis* prohibited. The legislature has obviously confined this dangerous authority within narrow limits. It appears that they had primarily in view, the violation of the laws which protected the Company's trade. By the 5th Geo. 1. c. 21. s. 2. the Company might seize *traders* repairing to the East Indies contrary to law (which is declared a misdemeanor) and send

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\* In the case of Lieutenant Colonel Doveton, honourably acquitted by a court martial.

them to England to answer by due course of law.

The 7 George I. c. 21. s. 3. specifies with great care what is to constitute the character of a *trader*, and extends it to all persons unlawfully repairing to India. But it was never pretended, that officers and soldiers were traders within that act. The same provision is re-enacted in the 7th section of the 9th Geo. I. c. 26. By the 13 Geo. 3. c. 63. s. 32. the cases in which the power may be exercised, are laid down with still greater circumspection; and they are these only; where persons are dismissed from the service, or have voluntarily resigned it; and where the covenants of free merchants, free mariners, and others who have obtained licences to trade, have expired. Doubts having arisen whether persons resident in India, whose licences had expired, or had ceased to be employed by the company, could be seized and sent to England; by the 26 G. 3. c. 57. s. 34. and 35, it was enacted that " all persons whose " licences shall have expired or shall have been

“ dismissed from or resigned the service, shall  
“ be considered ‘as trading without licence,  
“ and shall be seized and sent to England.”  
It is observable, that the case of persons sus-  
pended by the local governments does not fall  
within any of these provisions; for admitting that  
military men were removable by any other  
authority than the sentence of a court-martial,  
it is obvious, that they are not comprehended in  
any of these classes of persons *dismissed* from,  
*or resigning* the service, or of traders whose cove-  
nants or licences have expired.

It is equally plain, however, that the persons  
thus described as *resigning* or *dismissed*, are the  
civil, not the military servants of the company. The  
former remaining subject to the bye-laws of the  
corporation, or the control of the court of directors  
and their local governors; the latter expressly sub-  
ject to the regulations of the 27 Geo. 2d, c. 9, and  
therefore exempted from a discretionary and  
arbitrary jurisdiction. Were it otherwise, that  
act, framed for the conservation and discipline  
of the company’s army, would be a dead in-

operative letter; and the whole body for whom it was enacted, liable to be dispersed by the caprice or humour of the Governors of India.

With such humane precision is the delicate discretion of sending persons from India to England tolerated by the legislature, that even in cases of an illicit correspondence with the native powers, (a crime subversive of the British power in India,) it is fettered with many wholesome limitations. The 33 Geo. 3. c. 5. s. 45. directs, that if on examination there shall appear reasonable grounds for the charge, the suspected persons are to be committed to safe custody, within five days to be furnished with their charge or accusation, and to be permitted to deliver their defence in writing with a list of their witnesses, who are to be examined with those in support of the charge before they can be sent to England for trial. Is it reasonable to suppose, that persons accused of a delinquency, approximating to treason, should be thus jealously protected from the colonial governors, whilst these gentlemen, members of a British army, unheard and ignorant alike of their crime and their

accuser, should in the insolence of official pride or a fit of low-minded spleen, become subject to a sentence of degradation and exile?

If then it has been shewn that the powers assumed by Sir George Barlow in the order of the first of May, was in violation of an unrepealed law, dictating a specific form of proceeding for all military offences; something at least is effected towards a candid and mitigated judgment upon the unfortunate commotions which followed. Nor is the argument weakened by the pretence, that the officers were transported to England to be tried by the court of directors. The governor of Madras had no authority to send them hither to be tried. The court of directors\* had no jurisdiction to try them.

\* It has been supposed that the 36 Geo. 1. c. 53. in its 36th section recognises a power in the directors to recal or remove their military servants without a trial agreeably to the 27 Geo. 2. But it is a mere proviso " that nothing in that act should extend to take away the power of the court of directors from removing or recalling or dismissing any of their officers or servants at their will and pleasure in the like manner as if this ~~act~~ had not been made." The clause therefore confers no new power, but saves only that which

The statute of George the Second had defined the form, the process, the crime, and the punishment.

If then, Sir George Barlow's measures were grossly illegal, as well as rash and imprudent, by what rule of justice is all indulgence to be withheld from the errors and violences of the army? Public discipline will not indeed allow of more than indulgence. But when their wrongs are fairly weighed against their resentments, they will be at least intitled to a milder condemnation. Something is due to the feelings of man, who by no theoretical reasoning, nor military code, can so far be rendered the artificial creature of the state, as to be wholly unmoved under persecution. Nor in the adjudication of the question, are we to put the sanctity of discipline exclusively into the scale with Sir George Barlow. He who disturbed the legal rights of the army, gave the first blow to discipline.

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*existed before the act.* But admitting that the directors could recal or dismiss their military servants, the concession does not affect the reasoning. The power of the directors to dismiss or recal does not imply the right of the local governors to send home officers, who are neither recalled nor dismissed.

Yet it may be safely laid down as a position applicable to every period of the commotion, that their object was the interposition of the governor general, and in the mean time to check by a resistance to the authority of the local governor the course of violence, on which he had entered. I cannot approve, or even justify this as a wise or sober proceeding; but it is just, that it should be distinctly shewn, that theirs was no insurrection against the state, which in its most fevered moments they would have poured out their blood to defend. The internal holdings of public discipline were not for an instant loosened.

It was a temporary rupture of the tie, which connected them with the government of Madras, till Lord Minto, by his personal interposition, (from the first to the last ardently invoked by the army) should restrain the further prosecution of measures, conceived in the tone and temper of the first of May. It will be seen that neither their passions, nor their hopes transported them beyond this limit. The insurrection, if it deserved the name, was kept alive by the irresolution and delay of Lord

Minto: it ceased the very instant that his arrival was known.

The most sanguine or violent amongst them did not suffer their hopes or resentments to stray beyond the revocation of the odious order of May, which had rendered them slaves to the caprice and despotism of the Government. No concerted or definite plan of resistance appears to have been framed. A clumsy and injudicious compliment paid in that order to the Hyderabad force at the expence of the rest of the service, had indeed called from that detachment a disclaimer expressed in no very measured or respectful terms; a consequence, which it required but little discernment to have foreseen.\* For it had a tendency to bring them into suspicion with their brother officers; and they endeavoured, naturally enough, to obviate the suspicion by increased vehemence of zeal in the cause, to which they had committed themselves.

It was at this period, that the respectable and

\* See Lieut. Col. Malcolm's Observations on the Disturbances of the Madras Army, p. 20.

thinking part of the community looked with much solicitude for an opposite system of measures. They thought that the authority of Government would not be impaired by healing and moderate measures; or that the rescue of so many individuals from ruin and dishonour, ought even to have been purchased by condescension and forgiveness.

Neither the habits, nor the temper of Sir George Barlow encouraged such auguries. Sent out to India at an early age, without the advantages of a liberal education, he had carried through the gradations of the Company's employ, a mind dexterous in the little formalities of office, and guided in all its movements by the rules and prescriptions of the service. Man and his nature he had surveyed only from his desk, or in the shrunken dimensions and fettered attitudes of oriental servitude. The slightest disturbance of the dull routine along which his faculties had soberly and slowly travelled, created as it were a new world, for which his mind was wholly unsifted. To a mischief generated by an obnoxious exertion of authority, neither his

theory nor his experience suggested any other remedy, but that of repeating the very measure which had generated the mischief. It was, therefore, to Lord Minto, that every eye was turned ; but turned in vain.

Advice and remonstrance the most reasonable and judicious, urged his Lordship to repair to Madras. Before the foolish order of the first of May issued, Colonel Malcolm, on the 18th of April, reasoning, as he observes, from what he had heard of the transactions of the court, and *the perfect knowledge he had of the character of the Governor of Fort St. George*, entreats his Lordship's presence at Madras, and reminds him “ that there never was an occasion in which the “ active exertion of all his great powers was “ more necessary for the welfare of the state.” This gentleman had at that time a credit with the Government both of Bengal and Madras, which lent no slender authority to his opinions. In the sequel of those occurrences, it was indeed found convenient to Sir George Barlow to disparage and disavow his negotiator, because he found it impracticable to use him as his instrument. But it

is no reproach to that excellent and respected officer, that he reposed too easy a faith in a man radically and constitutionally treacherous.

If Lord Minto, however, had not been moved by these applications, the order of the first of May itself ought to have called him to Madras. It was no ordinary measure. It indicated no ordinary state of things. Officers of the highest rank and character were suspended from the service without enquiry or public trial: these punishments, which at least indicated no common symptoms, visiting the army in widely separated stations; the Circars, the Barhamaul, the Mysore, the province of Travancore. Yet these unnatural appearances fail of withdrawing the Governor-general from his retreat at Berampore. Sir George Barlow, it is true, did not require his presence at Madras. He asked only the favour of an epistle to the army, which by the magic of its eloquence was to allay every disorder, and preach them at once into content and allegiance—

*Verbosa et grandis epistola venit  
A Capreis.*

A paper calculated for such an end, is obviously exempted from the jurisdiction of the critic. Offensive to taste, or at variance with the general rules of composition, had it restored tranquillity, it would yet have been above animadversion. But if it was equally dull, and inefficacious; verbose and useless; if its doctrines are as dangerous, as its language is languid and heavy; such a piece at such a time is entitled to none of the respect due to the character and station of its author. I have already pointed out, in the exposition of general Macdouall's quarrel with Sir George Barlow, the fallacy of some of the positions of this memorable paper. I now shortly advert to that ridiculous heresy, subversive of all military subordination, which it preaches in defence of the conduct of Sir George Barlow towards his adjutant-general and his deputy, for obeying the orders of the commander in-chief. Its obvious absurdity will shew that Lord Minto, repudiating the sacred character of arbiter, assumed in this momentous period that of the sophist and the advocate. Not that the error has been seductive. By the Court of Directors, by

the Board of Controul, by every military man, by every well disciplined mind it has been rejected and reprobated.

For this most problematic of his measures, Sir George Barlow himself, resting its defence on a mere temporary expediency, sought not the aids of artificial reasoning. This was reserved for his lordship. It had been uniformly held as an undisturbed axiom, that military men were bound to obey the orders of their superiors. Obedience to orders such as military life requires, must be prompt, and independent of all deliberation on their qualities. Like every obligation, the military obligation has its limits in the paramount and higher duties of morality. If the military order was at variance with natural or municipal law, it would be destitute of all obligation. But the immoral or illegal quality of the order must be written in a letter too broad to mistake or overlook.

\* The order of a naval commander requiring his lieutenant to leave one of the crew on an uninhabited island falls within this exception.

With this modification, the principle of implicit obedience in military law is universal.

The universality of the proposition indeed is admitted by Lord Minto, subject only the exception, that criminal orders are not to be obeyed. But between Lord Minto and the common sense of mankind there is an irreconcileable variance, as to that which constitutes a criminal order. Plain understandings might suppose, that a criminal order is an order to commit an act which the immediate suggestions of reason and justice pronounce to be criminal. In this production, however, orders of which the criminality is dubious and problematic are classed in that category.

Applied to General Macdonall's order, which is called seditious (Lord Minto toils through fifteen paragraphs to prove it to be so) the question is, whether the seditious quality of it was plain and unambiguous? But it would seem impossible to appreciate its qualities, without entering critically into the disputes then pending between the governor and the commander-in-chief, on the extent of their respective

rights, involving mixed and multifarious considerations of fact, law and policy.

It was a question therefore which could only have been decided by an examination of the provisions of various statutes defining the limits of the civil and military functions; so that, while the army are solemnly told that they owe an unhesitating obedience to their superiors, they are enjoined to deliberate with the subtlety of lawyers and the nicety of casuists, before they carry their orders into effect. Such is the logic, by which the Governor-general attempted to maintain what he calls a new modification of the military principle. In the same breath he promulgates the law, and dispenses absolution from it. For every officer and soldier is distinctly told in this homily of insubordination, that they are absolved from military obedience whenever disputes happen between a local Governor and a Commander-in-chief, and that it is their duty to pause and deliberate, if they discern, or think that they discern, any thing extraordinary or portentous in the times and season when they are called on to obey.

It was at such a crisis, in reply to the very dispatch from Madras, containing the order of the first of May, that this epistle was composed; as if a strained and elaborate defence of Sir George Barlow's most obnoxious acts was the remedy to subdue the agitations they produced. Lord Minto, it is true, was told by the Madras Governor, that such an effect would be produced by such a letter; but he did not penetrate the low cunning of the suggestion. For it was Sir George Barlow's obvious policy to obtain from Bengal a recorded approbation of the doubtful passages of his government, not only as a testimony, which he might hereafter urge in his own defence, but as a division of his own responsibility with the Governor-general himself.

No impartial mind will be slow to discern, or reluctant to acknowledge, that from this period, Sir George Barlow's counsels were directed to one object; that of driving the army into violence, in order to deduce from that violence the justification of his former measures, and the necessity of the new ones he had contemplated. Advisers of high rank and estimation in the service were

not wanting to him on this occasion. The universal prevalence of the discontented and gloomy passions which the order of the first of May had diffused, was strongly urged by Colonel Malcolm, who in the middle of May had arrived at Madras. Conciliation, not concession, was recommended, while so many brave and meritorious officers were yet on the brink of crime and of ruin.\* But other counsels prevailed, and produced by the natural conjunction of cause and effect, that heaped measure of guilt and suffering which has irrecoverably destroyed the army of Madras.

The favourite scheme of policy now in contemplation at Madras, was the distribution of the native corps at such stations, as to place them under the check of his Majesty's regiments, a measure, by which the European officers would be delivered up to the resentments of the Governor. It was a scheme, which having been betrayed by unguarded communications, was soon known to the army, and produced its correspond-

\* See Colonel Malcolm's Narrative, p. 67.

ent impression. The incidents, which shortly afterwards occurred at Masulipatam, leave no room to doubt, that these were actually the intentions of the Government. They are a memorable commentary on the predestinated obstinacy and folly of its counsels.

The suspicion, that the Government had adopted the scheme of placing the native regiments under the check of the King's troops, and of sacrificing the European officers to their anger, was felt early in May in this garrison. The conduct of the Government confirmed that suspicion ; and a strong sensation of alarm was excited by apparent symptoms, that this measure was to have been ushered in by the disbanding of the Madras European regiment, stationed at that place. A toast "The friends of the Madras Army," had been given at the mess.\* Lieutenant-colonel Innis, a person of weak judgment and peevish temper, objected to it and withdrew from the room. The next day, he dispatched a letter to head quarters, detailing

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\* See the Trial of Major Storey, printed for Black, Parry, and Co.

the circumstance, but requested that no notice might be taken of it. The moment the Government received the letter, Lieutenant Forbes, who had proposed the toast, was ordered at an hour's warning, to Condapilly, a hill fort, remarkable for its insalubrity, and which was used merely as a place of punishment for the lower ranks of the army. In the official letter accompanying the order, the removal of this young man is expressly stated to be a punishment for indecorous conduct at the mess, and is pointed out as a warning to the corps. Lieutenant Maitland, who had merely drank the toast, was removed from his staff situation of quarter-master. Their application for a Court Martial was contemptuously refused.

To increase the bitterness of these provocations, the acceptance of the vacant station of quarter-master was forced by Innis on another officer, with the threat, that his refusal would be followed by the disbanding of the corps. No doubt could now exist of the intentions of the Government. The officers in a fever of alarm and inquietude addressed a remonstrance to head

quarters, soliciting the benefit of regular trial and military usage, and complaining of the unmerited and disgraceful punishments which were dispensed on private accusations, without the privilege uniformly indulged by law and policy to accused persons, of establishing their innocence.

About the period when Colonel Innis's report arrived at Madras, the Admiral had applied to that Government for men to serve as marines. Sir George Barlow seems to have greedily seized the opportunity, and issued his orders that a large detachment of the regiment at Masulipatam should embark as marines, so soon as the frigate and sloop destined for their reception should arrive. Nothing could have answered the purpose of an elaborate and studied system to urge the garrison to revolt, better than such a measure at such a time. Colonel Malcolm\* attempted to stem this torrent of madness by a clear prediction of the mischief that would happen. The prediction was disregarded. The mischief happened.

Every thing was most systematically devised

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\* Colonel Malcolm's Observations, p. 78.

that could render this measure odious and unpalatable. The dismissed quarter-master\* was ordered to command the detachment of his regiment who were to serve as marines; and Lieut. Forbes's place of exile was changed to the island of Penang. At a conference held on this subject, Colonel Innis read to the officers a letter from the Commander-in-chief, threatening to disband the regiment. The punishments of these persons; the injudicious avowal of the Commander-in-chief; the denial of all military inquiry, or trial, acting upon the antecedent temper of the garrison in unison with the general feelings of the army, diffused a sullen and gloomy inquietude; and resolutions were formed by the privatee, without any communication with their oslicers, to oppose the embarkation.

On the 24th of June two frigates appeared in sight. It was soon rumoured, that they were destined to carry away three detachments of marines. Had Colonel Innis, who seems to have been but the infatuated and blind minister of Sir

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\* Trial of Major Sforey.

George Barlow's resentments, attempted to carry this measure into effect with mildness, and satisfied the garrison, that the views and intentions of the Madras Government were misinterpreted and misunderstood, the alarm might have subsided. But that officer on the next day sent an order to his adjutant, to have the detachments ready for embarkation, and to convey this mild and seasonable message to the officers, " That he had sent " a requisition to the frigates for part of their " crews, and to call in His Majesty's 59th regiment, to enforce their embarkation to serve " as marines, and that the artillery at the can- " tonment were in readiness to assist them." A general and avowed determination to resist the execution of the order ran with inconceivable rapidity through the garrison. The men shortly afterwards fell in upon parade with arms in their hands, which they expressed themselves determined to use to the last extremity. All was done, that exhortation, remonstrance, reasoning could do, to divert Colonel Innis from his mad and desperate enterprize. Not a moment was to be lost. The effusion of blood in the worst of

conflicts, were mischiefs, which created a discretion, paramount to the ordinary usage of military discipline. Colonel Innis was placed in arrest by Major Storey, the next in rank, who instantly dispatched to the Madras Government the information of what had happened, assuring them that he held the command only till their pleasure should be known.

On the arrival of this intelligence, Sir George Barlow deputed Lieut.-Colonel Malcolm *professedly* on a mission of conciliation, with large discretionary powers. That officer, aided by two other distinguished members of the service\*, proceeded to Masulipatam, where he investigated those melancholy transactions with great prudence and forbearance; and having restored the garrison to tranquillity, quitted it on the 22nd July, leaving Major Storey in command. The spirit of the instructions given to Colonel Malcolm when he proceeded to Masulipatam, may be inferred from the measures he pursued there, which were frank, conciliatory, and moderate;

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\* Lieut.-Colonel Berkeley and Major Evans.

reclaiming by reason, where force would have been useless; persuading them to abandon a desperate resolve they had cherished of marching to Hyderabad; and vindicating the Government by whom he was delegated, from the misconstructions which prevailed as to their intentions of disbanding the regiment.\* No officers with instructions of a contrary tenor would have solicited as this gentleman professedly did, a deputation which must have terminated in the most disgraceful failure.

Yet† the discretion vested in Colonel Malcolm was treacherously disavowed, so soon as the first sensations excited by the transactions at Masulipatam had subsided, and the feelings of Sir George Barlow had flowed back into their former current. For it seems, that after a few vacillations between policy and passion, he at last surrendered himself to those advisers, who knew that there was no other mode of governing a mind equally weak and obstinate, but by minis-

\* See his Account of the Disturbances, p. 83.

† See Madras Papers, (No. 1.) a letter from Fort St. George to the Secret Committee. 10 September, 1809.

tering perpetual flattery to its resentments. A remarkable proof of this may be observed in his counsels relative to the Hyderabad force, from the officers of which the Madras Government had nearly about the same period, received a most intemperate address. Yielding to the advice of Colonel Malcolm, he pledged himself with some solemnity to send a reply to that body, drawn by that officer, in which the dignity of the Government was judiciously blended with a due forbearance and lenity towards its misguided subjects. In the same spirit and with equal sincerity, he disclaimed the violent counsels, which Colonel Munro and three or four of his favourites had imprudently breathed to Colonel Malcolm, previous to his voyage to Masulipatam.\* Two days after his departure, the very plan he had just before disclaimed, of disconnecting the seapoys from their officers, by placing the native corps under the check of the King's regiments, is begun, and orders are sent to Hyderabad for the march of the second batallion of the tenth regiment to

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\* Colonel Malcolm's Account, p. 82.

Goa. The ambassador of peace and conciliation, having effected the object of his mission, returned to Madras. But he returned, divested of the confidence and esteem of his employer.

*Excepit brevi osculo nulloque sermone serpentium turbā immixtus est.*

Such were the disorders, which the mere intentions of the Government, inferred from these measures, had excited at Masulipatam. Who could rationally expect, that at Hyderabad, where the minds of the officers were still more distempered, the actual execution of that odious plan would be followed by no mischief? It would be a waste of words, therefore, to trace this most insane proceeding to any other cause, than the wicked policy of procuring a semblance of justice, and a colour of necessity, for the *extreme* measures, which had been meditated. Colonel Close, who had been sent to the command of the subsidiary force at Hyderabad, an officer of sound talents, and the highest reputation, in his letter\*

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\* Papers laid before the House of Commons, (Madras Army,) No. 1.

to the military secretary of the 24th July, 1809, summons every reasoning, that ought to have influenced considerate and sober minds, against this injudicious resolve, whilst he points out the natural effects of the experiment. "The officers," says he, "are now more forcibly tied together than before. " If the measure of moving the batallion was *meant to be useful*, Hyderabad was the very place where the experiment ought not to have been tried." He was not ignorant, whatever might have been its professed object, of its latent and real one.

The order for the march to Goa, as its authors expected, was disobeyed, and a foolish and intemperate address, called their *Ultimatum*, was dispatched to the Governor. From this period, the officers of that force took the precedence in hostility to Sir George Barlow, and held out to the other branches of the army promises of support in all the defensive measures they might be compelled to adopt.

This act of disobedience, anticipated, provoked, and welcomed by the Madras Government, furnished a necessity and a pretext for the long cherished scheme of the 26th of July, 1809 ; the separation of the officers from their native corps, on their refusal to sign a test of fidelity to the Government. Abstractedly considered, a mere test of allegiance was nothing more than a recognition of duties implied in the military commission, and inherent in the military character. But as a pledge of fidelity, it was superfluous, where no faith had been violated. It was more than superfluous. It conveyed the worst of censures. *Hæc commemratio est quasi exprobatio*, is the indignant remonstrance of the slave in the old play. But viewed in its connection with circumstances ; with the spirit and temper of Sir George Barlow's policy, and the re-action of that policy in the violence and indignation of the army ; when it is recollect ed too, that they were knit together by one vow, and animated by one sentiment, is it likely that they should have adopted any other cou-

struction of it, than that which they actually gave it; that it was a pledge to act in a sanguinary concert with the King's troops against their brother officers?

Was the mode of executing the measure likely to soften and mitigate this construction? A large camp was formed at the Mount, a few miles from Madras. Of this force, the King's regiments composed a majority. But the Company's officers commanding there were men of the most undoubted honor and loyalty, who taking no share in the general discontents, had been the patient though troubled spectators of the indignities directed against the army. The first indication of the intended project was an attempt to debauch the native officers from their obedience to their European superiors. On the 23d July, a brahmin in the employ of Colonel Munro informed a native officer of cavalry, of the name of Secunder Khan, that he was sent by his master to tell the native troops that their officers had petitioned for greater allowances, and had resolved to mutiny, because Sir George Barlow

had refused to grant them: that the native troops ought therefore to support the Governor. The brahmia also assured Secunder Khan, that *if the demands of the English officers were complied with, the native officers and seapoys would lose a proportion of their own pay.* Secunder Khan, the native thus tampered with, was promised a handsome *jaghire*, as the price of his bringing over the native officers and men \*. There is abundant evidence to shew that Munro had sent other emissaries with similar instructions to other native corps at various stations.

The officer commanding the cavalry, Colonel Rumley, convinced that these machinations had received no countenance from the Governor, demanded a conference with him. His reception, however, convinced him, that the intrigue had been sanctioned by his authority. He returned to the Mount, and imparted the result of his mission. The disgust, horror, indignation, excited by this low and unmanly stratagem, may be well conceived.

On the 26th of July, a peremptory summons was sent to every Company's officer of Fort St. George to attend at Colonel Conran's quarters, where a letter was read, containing a fulsome panegyric on the King's troops, and an order to the commanding officer to propose the test, and to remove from their corps those officers who refused to sign it. The test was then proffered for their signature, with the notification that they must either sign it, or retire to Pulicat, the place assigned for their banishment. The Commander-in-chief, General Gowdie, was pleased on this occasion to address the officers, not one of whom had committed any offence against the discipline of the army or the laws of their country, by the appellations of *traitors to their country, and mutineers.* Only six regimental officers signed. The rest were sent to Pulicat. Amongst these were officers, distinguished by their passive acquiescence in every order of Government during that unquiet period, and by an exemplary abstinence from the least utterance or indication of the passions, which were vibrating through the whole army. At the Mount the

same scene was acted ; where the rejection of the test was still more general. The officers were suddenly summoned from their camp across the Marmalong bridge, to Colonel Hare's house, where they were told that they who refused to sign, would not be permitted to return to the camp. They rejected with one movement of scorn and indignation, a proposition so insulting to their characters ; and were separated from their corps.

The same test was proposed at various stations. But out of fourteen hundred officers, there were not more than eighty-eight who signed it, through the whole of the Company's army on the coast establishment. At Trichinopoly, the measure was carried into effect by Colonel Wilkinson, of H. M. 30th regiment of foot, with an intemperance almost amounting to brutality. The officers, about fourteen in number, having objected to that part of the test, which pledged them to obey the orders of the Government of Fort St. George, qualified their assent to sign it with a reservation, that they were only

to obey the *legal* orders proceeding from that authority. A signal was then given by Colonel Wilkinson ; and the house where they were assembled was surrounded by a detachment of H. M. 30th regiment, who had been concealed for that purpose. Nothing was omitted that could degrade, or disgrace, or irritate. The officers were then ordered to fall in between two sections of the detachment, when this faithful minister of Sir George Barlow's policy, enquired whether his men had loaded, and being answered in the negative, ordered them to do so, with this injunction—“ If a rescue is attempted, my orders are that you put every one of them to death.” They were then marched under fixed bayonets to the barracks, where they were placed in confinement. The next day they were capriciously liberated.\* No military process ; no offence charged against them.

\* The whole substance of this shameful abuse of authority was stated afterwards to the Governor-General, with an application for a Court Martial on Colonel Wilkinson. It was

Amidst these topics of painful retrospect, the memorable expedient of the 4th of July interposes matter of the gravest reflection. It is not fated to die with the occurrences themselves. These have passed away. If they are not destined soon to be forgotten, still the passions they have engendered will sink into repose. The gloom may be brightened by better days, and dispersed by milder administrations. The ~~oppressor~~ himself, retiring from the public scene, hissed and hooted from the stage, may find in obscurity not indeed the quiet by which wearied virtue is refreshed, but the oblivion, in which his crimes and his follies may be veiled. But when his name is erased from the memory of man, the policy of that day will be remembered in the bitter fruits of dissention, and enmity, and distrust, which may

refused upon grounds that cannot be very satisfactory to that officer; that an amnesty (of which the Company's officers were exclusively deemed to have been the objects) having been granted, Colonel Wilkinson's acts were comprehended within the terms of it.

sooner or later subvert the British empire in India.

Of this measure, the mischief derived a peculiar malignity from the discord planted between the two services by the manner in which it was executed. Once competitors in fame, companions in enterprize, partners in danger; they are now rivals for profit and emolument, and mutually impatient of each other. It is a fact capable of the strictest proof, that the trifling jealousies which occasionally existed betwixt them before that period, are now sharpened into a lively animosity. Could it be otherwise, when in the face of all Hindustan, the army of the East India Company was proclaimed to be traitors and rebels by the successive proclamations of Fort St. George; and his Majesty's troops, on whom all their bounty and patronage were poured, complimented with the monopoly of all the fidelity and allegiance, on which the weight of the empire reposed?

Yet the measure of that day has consequences, that strike much deeper. The ancient

connexion between the native soldiery and their officers is dissolved. That mysterious link, the master piece of Indian policy, which rendered military duty a habit of affection, and placed military obedience amongst the sacred endearments and cherished instincts of life; which to the strength it acquired as a prejudice of education, added that which it derived from the feelings of the heart, has been snapped asunder. The respect, and awe tempered by attachment, which once formed the most interesting features of the relation between the seapoy and his European officer, are gone as a shadow. A chain has been broken which can be replaced by no substitute, and repaired by no artificer.

It is not the bungling and wretched politicians of Madras, who in one hour, consented to abolish the work of years, and within whose horizon nothing but the present is discerned; it is not these persons, who can be made sensible of what they have lost. But they, who on many signal occasions, have seen the charm at work in the defence of the empire, must recognize with indig-

nation and horror, in what is now left of the army of Madras, the husk and shell of what it was, before it was debauched and vitiated by this fatal experiment. Considered as merely remedial of the evils to which it was applied, it was a coarse unskillful artifice. It could neither reclaim the violent nor satisfy the discontented, whilst it alienated and disgusted those whose fidelity ought not to have been suspected. It involved all in one indefinite suspicion, and one undistinguishing censure ; while it shewed the real weakness of Government, in revealing the dangerous secret that more than four-fifths of its army were animated with resentiment and hostility against it. It drove those, who though they were infected with the general feeling were yet within the confines of submission, into actual revolt, by confirming, beyond all contradiction, the intentions they imputed to the Madras Government.

The policy of this measure was shortly afterwards illustrated at Seringapatam. As it is the only conflict that took place between the King's and the Company's services, and the only com-

mentary on that fatal text, which has been written in blood, it is necessary to state it with some minuteness.

The officers of that garrison had abstained from all share in the memorials and complaints, by which the discontents of the army had been conveyed to the Government. That they were uninfluenced by the prevailing discontents of the body, to which they belonged, would be an unnatural conjecture. The occurrences at Masulipatam, and at Hyderabad, and the alarm, which had been diffused by the expedient of the 26th July, had occasioned much agitation within the walls; and this sensation acted with the greater vehemence from the dark and obscure reports, (all communication by letter between that fortress and Madras having been cut off) which had reached them. The indefinite shape of the danger, clothed it with aggravated terrors. About the 29th of July the rumour reached them, that the officers of the Company's service had been treacherously and ignominiously seized at the Mount. About the

same time, in this fevered state of mind, accounts arrived at the garrison, that the forces of the Rajah of Mysore were destined to co-operate with the detachment of His Majesty's 80th foot, then in the fort, to seize the persons of the Company's officers, in conformity to the orders of Sir George Barlow. Terror, suspicion, and distrust, had rendered every mind open to rumour and alarm. An unfortunate incident happened in this distempered state of things. An officer of the 80th regiment, who belonged to the escort at Mysore, had slept at Seringapatam on the 29th, in the barrack of that detachment. The men were employed during the whole of that night in making ball-cartridges, and Colonel Davis had himself made a report of their ammunition. These appearances, naturally interpreted into symptoms of meditated hostility, inflamed the various passions, which were afloat, and in this state of feeling the officers were summoned to attend Colonel Davis, commanding the Mysore, at his quarters on the 30th July.

The senior officer of the garrison during these

disorders, was Lieutenant-colonel John Bell, of the Artillery; a name dear to those, who know the military body of India. By the unaffected simplicity of his manners, and the unsullied integrity of his heart, he had won the attachment and love of his contemporaries, and the esteem and veneration of the junior part of the service. In the most momentous hour of the Company's fortunes in India, he had shewn all the qualities of cool fortitude, unshaken firmness, and unclouded judgment. His character is unbroken by the storms that have overwhelmed his fortunes. He has carried into his retirements all that can support him under misfortune, or console him under reproach; the conscience of having acted with the purest intentions, reflected back in the affection and observance and reverence of his friends.

This officer had arrived from England some time after the dissatisfactions had begun. In these he took no other part, but that of recommending by his persuasions, or enforcing by his authority, the most submissive patience. In the garrison, he had systematically opposed himself to

the tide of their passions and inquietudes. Down to the latest period, till all authority was overborne, he had preserved them from combination and cabal, when that spirit was most strongly at work in other parts of the army. But no authority could stem the torrent. A committee of junior officers had assumed the command. This state of things had been communicated by Colonel Bell to Colonel ~~Davies~~ as early as the 24th of July, in a letter, wherein he expressly suggests the adoption of some measures for the restoration of tranquillity. It was obviously, therefore, the duty of Colonel Davies, to have confided in Colonel Bell; to have explained the nature of the instructions he had received from Fort St. George, and to have enabled him to counteract the terror and the perturbation, which had gone forth. Unfortunately a different course was pursued. The orders, however, for assembling the officers, were promptly executed by Colonel Bell. But they assembled under the influence of emotions, augmented by this strange and mysterious order.

The officers communicated to Colonel ~~Davies~~ their apprehensions. This surely was the time

for an explanation of the real intentions of Government. Had it been given, there is abundant evidence to conclude that the officers would have refused the test, but have yielded obedience to the Government order, by departing to the stations allotted to them. No explanation was vouchsafed; and under the impulse of the apprehension that the seizure of their persons was intended, orders that no one should quit the garrison were given. This order had no other object\* than protection from the apprehended introduction of the Mysore force. No restraint, as it was proved at the trial, was placed on Colonel Davies. He was requested to remain in the garrison, and complied; but quitted Seringapatam the same evening; an important fact, which would have been proved at the trial of Colonel Bell; and by which that officer and the rest of the garrison would have been absolved from the imputation of having restrained the person of Colonel Davies. The only witness, however, Colonel Davies himself, from whom *direct*

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\* See the Trial of Lieutenant-Colonel Bell.

proof of the fact must have been derived, was allowed by the government to depart for England, notwithstanding repeated applications for his testimony.

It is a curious fact, that Colonel Bell, the officer on whom the heaviest responsibility has descended, for the very calamity he was labouring to avert, actually signed the test, obscure as the intentions of government were as to their object in proposing it. He did so in the pure spirit of military obedience. But no orders were given him as to the removal of the officers who refused to sign it. They remained, therefore, in the garrison. In the mean time, the command was exercised by a committee, which the senior officer never attended; of whose proceedings he was ignorant, and whose conduct, in the maimed and crippled state of his own authority, he was unable to counteract. His perplexities and difficulties were communicated to Colonel Davies on the 2d of August, who entering fully into his situation, in the warmest manner urged him to leave the garrison, and seek a refuge with him or

the resident. But this retreat was not open. Besides the obvious imprudence of quitting his station without orders, it was proved, at the trial, that his escape, had he attempted it, would have been impracticable.

The motives which influenced him in this perplexing conflict of duties, were faithfully delineated in a letter he wrote to Colonel Davies the next day. “ I shall remain here, as long as “ I can do any good, and till I receive your “ orders to the contrary.” They are also recorded in his defence. “ This is the light, by “ which my conduct, if it has any thing dubious “ or problematic in it ought to be illustrated. “ My object was to prevent the effusion of “ blood ; to soften, if I could not heal the ir- “ ritation, and by acts of a salutary compromise “ mitigate the evil that threatened us. Yet I “ would instantly and at my peril, have obeyed “ or made any effort to obey any military order “ to quit the garrison. I received no such “ order.”

All communication with the Residency ceased.

It was considered as in a state of siege. In the mean while the treatment of the officers at Trichinopoly in all its aggravations, reached the Fort. All was tumult, incertitude, despair. The detachment of the 80th, not more than 120 men, who were suspected of hostile designs, were no longer safe. With a provident anxiety for their safety, Colonel Bell, having communicated to head quarters the motives which governed him, requested the officer commanding the detachment to march out.

On the 6th of August, Colonel Bell, whose authority had been usurped by a committee, received a request from the officers to re-assume the command. Yielding to the over-ruling wish

\* This mere handful of men in the midst of a garrison, which considered them as engaged in hostile designs to them, were not safe within its walls. A letter from the Resident had been intercepted, instructing them that co-operation from without was prepared. It was directed to the officer commanding it. "Dear Adamson, cannot you make a dash and you shall be well supported. A. COLE."

"Mysore, 3d August, 1809."

This conflict was averted by Colonel Bell's precaution.

of his heart, anxious to mitigate the evil he could not prevent, he gladly acceded to it, convinced that "in the hands of a man bent on peace and subordination, the control would be exercised with better chance for the public interests, than in the hands of seventy or eighty."

In the mean time, large bodies of Mysore troops had appeared in movement. This circumstance confirmed the apprehension that the garrison were to be delivered up to the resentments of Sir George Barlow, and that the Mysore forces were collected for that purpose. Lord Minto's proclamation at last reached the garrison. It announced his determination to proceed to Madras. Delay was the only policy that was safe. If the Mysore force had begun hostilities, the garrison would have been defended to the last drop of blood within its walls. To avert this evil, Colonel Bell intimated to Colonel Davies, that he considered the Fort committed to his charge, till the decision of the Supreme Government was known. The arrival of the Governor-general was hourly expected. It was

under these circumstances, that this judicious officer did not attempt to deliver up the fortress to the troops of Dewaun of Mysore; an attempt, which would have been followed by a dreadful carnage in the worst of civil conflicts.

The officers of two native batallions at Chittledroog, under the alarm excited by the transactions at the Mount, determined to shelter themselves in the fort of Seringapatam. They marched without molestation till they arrived nearly within sight of it. On that very day a force had been assembled, for what purpose it was difficult to divine, under the walls of the garrison, consisting of the Mysore troops, and a detachment of II. M. twenty-fifth dragoons, and eighty-ninth regiments of foot. In the mean time, a considerable body of seapoys, (the batallions who had marched from Chittledroog) were seen from the garrison, harassed by a large detachment of the Mysore cavalry. Shortly afterwards the King's troops poured impetuously on them, and they were apparently straggling in great disorder, and almost defenceless. These

unoffending batallions would have been cut up, had not a very few shot been fired from the garrison, which though wholly ineffectual from the distance, induced the dragoons and the Mysore troops to desist from the butchery and pursuit of these wretched creatures.—This is the only passage in these occurrences which is marked with blood. Happily for the character of the Madras army, they are wholly absolved from the guilt of provoking this disgraceful conflict.\* The garrison at Seringapatam thus rescued from destruction, it is worthy of remark, these innocent

\* In the accounts published by the Government of this melancholy transaction, more satisfaction was manifested at the bloody result, than might have been expected from the paternal solicitude of a British Government, watchful over the lives and happiness of its native subjects. These accounts when they arrived at Hyderabad, had it not been for Colonel Montresor, *who pledged himself that they were false*, were near rousing a mutiny among the native troops, which would have renewed the dreadful scenes of Vellore. They were founded also on a falsehood. They stated that a Lieut. Jefferies in the act of carrying a flag of truce was fired on and wounded. That story has since been disproved by the surgeon who dressed the wound, and who proved that his wound was of a different description.

batallions, who were afterwards by Sir George Barlow himself exempted from blame!

When these transactions are tried by the sober jurisdiction of reason, the discretion exercised by the commander of Seringapatam in refusing to deliver up his garrison to inevitable bloodshed, will be allowed to fall within that moral competence which arises out of new and extraordinary dangers. For these no law can provide: because no law can, or ought to contemplate them. The speedy arrival of Lord Minto in a mediatorial capacity had been announced. It was probable that he had already entered into that function. For the unpropitious delay, the procrastinations and lingerings that detained him at Calcutta when every hour was irreparable, the Governor-general was himself exclusively responsible. The error or the crime of Colonel Bell consisted in too romantic a calculation of the generous and unfeathered feelings of the arbiter. Had there been time whilst these events were on their march, for prudential calculations, reflection might have whispered that he who had already approved in

the mass of every procedure of the Madras Governor, could not without the most ridiculous inconsistency, depart from the pledge he had given to support him; that he who in the first stage of the transactions was the accomplice of his policy, could only appear in the last, the executioner of his vengeance.

It is certainly true that it was against Sir George Barlow *himself*, not his Government, these disturbed procedures of the army were directed.\* It may savour of a metaphysical

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\* Sir George Barlow was himself aware of the hatred he had inspired. To disguise this unwelcome truth as much as possible from himself, and the other settlements in India, as well as from his superiors in England, an address from the inhabitants of Madras, conveying much ill timed reproach on the army, and a dedication of lives and fortunes to his support, was a suggestion greedily embraced. These addresses had usually been spontaneous and preceded by some deliberation, at meetings called for that purpose. It was an exquisite refinement upon the usage, to extort signatures to it by menace. At the time when this experiment was made, universal terror hung over the settlement. Spies and informers were busily at work in carrying every unguarded expression to the Governor; and, as all held their bread at his will, it might have been expected, that amongst the civil servants, no individual would have had the courage to refuse. But out of an European population of nine hundred persons,

refinement; but it is a fact, that this distinction, erroneous as it was, operated as a sort of justification in their own eyes of the errors they had committed. Orders relating to the interior œconomy of the troops were obeyed with promptitude. In their wildest perturbation, depositing all their griefs and their resentments, they would

terror, artifice, menace could only procure the miserable number of fifty-seven. Of these, twenty only were civilians. General Malcolm, in his Account, p. 111, says, " Gentle-  
" men of the first respectability in the civil service informed  
" me, that when they had testified an aversion to sign this  
" address, unless parts of it were modified, they received  
" such plain intimations as to the consequences of refusal,  
" as left them no doubt but that they must either sacrifice  
" their opinions, or bring immediate and perhaps final ruin  
" on themselves and their families."

Leith, the Judge-Advocate, was the person who hawked about this Address. When he carried it to the late revered Sir Benjamin Sullivan, one of the Judges of the Supreme Court, he was told by that upright Magistrate, to take it back to Sir George Barlow. " I consider," continued the Judge, " Sir George Barlow the author of all these calamities, " by goading the army to desperation."

The objections to this address proceeded from no unwillingness to support the legitimate authority of Government, but were principally suggested by the exasperating language, in which it spoke of the army, and the implied approbation it conveyed of Sir George Barlow's conduct.

have marched against the enemy. But they disobeyed those arrangements which they deemed subservient to the plan of separating them from their corps. It was this apprehension, confirmed by every successive act of the Government, that drove them into actual resistance. The order of the first of May, though it declared that the forms and the benefits of justice were cut off from them, and of which, even if the legality were unquestionable, the frequent or extended exercise would have been a mad and wanton abuse of authority; even this order, which by the stroke of a pen consigned their officers to penury and ruin; sent them from the country of their habits and their adoption, without the means of subsistence; denied them the rights given them by the law and constitution, and depriving them of a present hearing, endeavoured by libellous denunciations to preclude them from future redress; even these unfeeling acts of power, did not drive them from their duties. One tribute, however, is due to their character as British subjects and men of honour; and it shall not be withheld from them. It is a fact,

which is strongly attested, and may easily be proved, that they concealed from the native soldiery their dissatisfactions and grievances. They knew that an instrument was within their reach, which they might have wielded to a severe retribution, but not even during the strongest sway of the vindictive passions, did they imagine a measure, so fatal to the repose and interests of their country.

If a striking proof were wanting to shew that personal hatred to Sir George Barlow was the animating principle of these commotions, it would be seen in the instantaneous effect of Lord Minto's proclamation at Bengal. It seems, that the transactions of Masulipatam had reached him on the 10th of July. Awakening from his credulous acquiescence in the Madras representations, for the first time, he began to suspect, that every thing was not tranquil in that settlement, and that his presence there was requisite. Ten days however are consumed in the composition of this piece, which makes its appearance on the 20th. Happily, the interpretation which it received (an interpretation strictly war-

ranted by its language) ushered it to the Madras army as an omen of gladness. For it seemed to proclaim, that his visit was that of an impartial mediator. Instantly the storm was hushed. The Hyderabad force returned to their duty and signed the test on the 12th of August. Masulipatam, Seringapatam, and lastly, the Jaulnah troops followed the example.

The Governor-General, however, was not ready till the fifth of August; nor did he land at Madras till the 11th of the next month. Had he arrived a month earlier, the army might have been saved from crime, disgrace, and ruin. Lest the happy construction, however, upon his proclamation from Bengal, should continue to produce its auspicious effect, his lordship the day after his arrival, takes care to dispel the illusion, by declaring to the army, that he brought thither nothing " but accession of authority."\*- A seasonable remedy for disorders confessedly produced by the abuse of authority! The ac-

cession of authority required by the Madras Government, was a perplexing problem to those who had seen what inordinate powers they had already assumed. In his letter, however, to the Court of Directors, he seems to have conceived correcter conceptions of his duty, and invests himself with the sacred character of arbitrator. But it was obvious, that he would not condemn the measures he himself had approved; and it demands no common liberality of mind to be armed against the sophistries, which mislead us into a veneration for our own opinions, and an attachment to our own errors. Surrounded by the very persons against whom his interposition was invoked; partaking of their hospitalities; perhaps soothed by their flatteries; it would have been a rarity and perfection of virtue, almost out of the reach of humanity, had he carried to the adjudication an unbiassed mind, or an unfettered understanding.

All the deliberation, which the Governor-General seems to have expended on a subject, complex from the interests it involved, and voluminous from the various memorials and state-

ments of individuals, occupied little more than twelve days. It might be presumed from the usual pace, at which the mind of his Lordship had hitherto travelled during these procedures, that the greater part of this interval was dedicated to the mere composition of the laboured document, announcing his definitive judgment, which appeared on the 25th of September.\* This piece, objectionable on the score of its unnecessary prolixity, and the redundancy of those common places, with which the writer habitually enforces and illustrates his matter, contains also a most unbecoming selection of topics, calculated to arouse the decaying resentments and the almost dormant passions, which his interposition was expected to allay. On this occasion, they were peculiarly unseasonable ; for his Lordship ought to have remembered, whilst he was declaiming on the crimes of those whom he had selected for trial, that those crimes remained to be judicially proved ; and that it was an unfair mode of influencing the feelings and biassing the under-

standings of the court martial, who could not come with equal and impartial minds to the trial of prisoners whose guilt had been already proclaimed from the seat of authority. But his Lordship not only infers the guilt, but anticipates the sentence. For after enumerating the persons, whom he hands over to a military tribunal, he takes credit for having limited the number of *punishments*; a precipitate and by no means a decorous insinuation, that there was so strong a conviction of their guilt in his own bosom, that their trial and their punishments were co-relative terms. Lest this document should not be felt in all its severity by the army, they are tortured with panegyrics of Sir George Barlow, expressed in a phrase peculiarly tumid and extravagant.

By a sort of ill-timed pleasantry it is styled by the noble writer an amnesty. Never was that sacred word more outrageously prostituted than by its application to a document, denouncing for persecution and punishment, twenty-one officers, and which opening an investigation not only into the principal transactions of the mutiny,

but all the preceding acts and counsels of the Government, would refresh and revive the slumbering passions and discords, which they had generated. In the selection of these officers out of the aggregate delinquency of their brethren, caprice and fancy and whim seem to have been peculiarly sportive. Every maxim of sound policy, reason or judicature, is kept at a most contemptuous distance. Offenders and offences are classed not according to degrees of guilt, but according to the accidents of personal rank and station. Three officers compose a distinct class of delinquents, liable, as his Lordship hinted to the courts martial that were to try them, to sentences of higher severity, than it was in his contemplation to extend to the whole number of those who were submitted to trial. Some extraordinary delicacy restrained the Governor-General from dictating in express terms the punishment of death on the officers comprehended in this class. The court martial, however, could not be unmindful that the selection itself implied that such an infliction was meditated and anxiously desired by the Government. But

on what principles are these officers discriminated from the rest of the army? "The officers in command of garrisons or a considerable body of troops, will be separated, on the grounds of higher responsibility from the commandants of corps. The former will be subjected at all events to trial: the latter will be allowed the option of a trial, or dismissal from the service."

In this discrimination we look in vain for conspicuous guilt; for priority in rebellion; for greater activity in treason, or for those ordinary indications of a criminal mind, without which external acts will not warrant a legitimate inference of crime. The distinction is made as with the rule and the compass. Officers whose rank and seniority placed them in command of garrisons and large bodies of troops, are thrown into this class, by the mere devolution of command during this troubled period. Every rule of justice was inverted by this distinction. As it was abundantly proved at the trials of these gentlemen, the authority of rank and station was wholly overborne. The commanding officers were studiously kept ignorant of the proceedings

that were going on. Instead of being the leaders of revolt, they vainly sought to interpose on several occasions their barely nominal authority to its progress; and in many instances checked and retarded, in other instances actually averted and prevented it.

What were the grave considerations of jurisprudence or policy, or common sense, that were present to the mind of his Lordship, when he gave his second class of delinquents their option to be tried, or to be dismissed without trial? The first class were selected for the highest punishment, which is death. The others, whose guilt according to his own principles, was secondary in degree, must have been visited with the more lenient penalty of dismissal. The alternative, therefore, of self-dismission without the chances or the benefits of a trial, as might easily have been discerned, would have been embraced by none. Every one accordingly made his election in favour of trial.

It was, however, matter of pleasing augury, that judicial trials were at length revived. It was a practical condemnation of the policy

which had abolished them. Public trial by known rules of law ; open proof delivered under the solemn sanctions of judicial attestation, took the place of secret accusation, obscure suspicion, and arbitrary discretion. The Court Martial appointed on this occasion, assembled at Bangalore on the 1st of November. It consisted of officers, selected from both services. Those from the Company's were such as had not only remained uninfeeted with the discontent of that army, but had incurred no small portion of unpopularity by their adherence to the Government. From such a Court, there could be no reasonable apprehension of an undue bias towards the prisoners ; and even admitting that some natural sympathies for their brethren would have been mingled with the judgments of that part of the Court, the King's officers, who were the majority, must have preserved the equipoise. Never, therefore, did prosecutors proceed to trial with greater advantages. Of such a Court, the leaning, had there been any, must from its constitution, have been unfavourable to the accused. Their adjudication, therefore, was the

opinion pronounced by the partizans of the Government on its own conduct.

Lieutenant-Colonel Bell, Major Storey, and Colonel Doveton, commandant of the Jaulnah force constituting the first class of Lord Minto's distribution, were first tried. But the judgments of the Court awarded only on the two first, the minor sentences of dismissal, which had been reserved for the second class of offenders, and strongly recommended the latter, Major Storey, to mercy. Colonel Doveton, was "most fully and honourably acquitted."

The grounds on which the Court seemed to have disregarded the graduated scale of Lord Minto are strictly defensible. The charges imputed overt acts of mutiny. According† to the Articles of War, the punishment denounced on this crime, is death, *or such other punishment as by a Court Martial shall be inflicted.* From the salutary discretion, thus invested in the Court,

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\* Asiatic Annual Register for 1809, vol. 11. To the historical part of this volume, the reader is referred for a masterly sketch of these transactions.

the legislature may be inferred to have humanely contemplated those cases, which falling within the letter of the accusation, were initiated by circumstances, which imparted to them other characters and qualities. The fact of mutiny could not be denied. The only avenue, therefore, through which they could reach the merciful discretion which empowered the Court to substitute a mitigated punishment for that of death, was to deduce from the peculiar acts of the Government, its questionable policy, and its violent procedures, such an abuse of authority, as would at least palliate the excesses into which they were hurried. It was the legitimate, it was the only efficacious topic of defence to these gentlemen, that there was a peculiar character of outrage and insult and illegality in those measures, which had urged the whole military body into a course in which, as in a transient delusion, they forgot their duties in a blind attempt to redress their wrongs; that the sense of these oppressions, among which the arbitrary right exercised by Sir George Barlow, of punishing without the forms of justice or en-

quiry, were the foremost, gradually diffusing itself over the whole body, at length bore down their own personal authority, and all discipline and subordination; that the prisoners assumed in a new and unprecedented conjuncture, for which no law had provided, and to which no ordinary rule could be applied; a wholesome discretion of doing that, which though strictly within the letter of the prohibition, was not within its penalty; and that by that assumption, they restrained within certain limits, a revolt, which they were wholly incompetent effectually to subdue.

No man can affect to deny, the leniency of these sentences to have been virtually a condemnation of the *policy* of the Madras Government, and more than a tacit recognition of the principles of the defence. The subsequent conduct of the Government shews them not to have been slow in giving it a similar interpretation. It might have been a decorous and dignified proceeding on the part of the Governor-General, who had lately been so profuse of declamation against the disregard of the army to the civil authority of the state, to have paid due homage in his own person to its

law and judicature. But I am about to state facts, which if they had not been exhibited in recorded documents, would exercise credulity as much as they would excite surprize. They amount to an infraction of the rights and duties of a court of law, which if successful, would have virtually superseded its jurisdiction.

It is a military usage, derived from the general words of one of the Articles of War, for the Commander-in-Chief, to whom the sentence of a Court Martial is sent for confirmation, either to confirm or send it back once for revision, if he disapproves it. This usage, however, conveys no right of dictating to the Court what their sentence ought to be, much less that of inflaming the passions of the judges, or of entering into long reasonings to weaken, or to controvert the defence of the prisoner\*. Heretofore it had been confined to those cases, where, in the judgment of the Commander-in-Chief, the Court had drawn the wrong conclusion on the issue of guilty or not guilty from the evidence.

But no Commander-in-Chief acquiescing in the general conclusion of the court as to guilt or innocence, had ever dreamed of requiring the substitution of a severer punishment for that which the court in its legal discretion had awarded. Minds tinctured with humanity must shudder at an attempt to extort the sentence of death against a prisoner, who had already been legally delivered from that dreadful peril.

Let at Madras, where the sentence on Colonel Bell had arrived about the 12th of December, 1809, a sentence awarded after a patient trial, and after the Judge Advocate had been copiously heard in support of the charges, and in reply to the defence;—after an interval of deliberation that by no means softens the moral character of the proceeding; a letter on the 22d February, in the following year, is written by Lieutenant-Colonel Leith, to the Deputy Judge Advocate officiating at the trial, by the direction, as he tells us, of the Commander-in-Chief. This Colonel Leith, a mere stranger to the court, holding no office in it, and having no official right to interfere with its proceedings, after

animadverting in low and scurrilous terms on the language of the defence, hints to the court, that “ instead of lessening the crimes he (the prisoner,) “ was to answer for, it only proved more fully “ the malicious disposition under which, he “ acted.” He scolds the prisoner for his animadversions on the measures of the Government, and *insists* on their being expunged. He calls the attention of the court *to the nature of the sentence, which has been passed on Colonel Bell,* and enters into an elaborate declamation, in which facts are mutilated to correspond to his reasonings, and reasonings introduced which have no facts to support them; all terminating in this mild and sober deduction: “ His crime, therefore, includes every thing that is treasonable “ in a subject, wicked in a man, or infamous in a “ soldier.” Again follow still more abusive observations on the defence. The court are roundly told in something more than an insinuation, that the officer commanding the army *was led* to have looked for a *different* kind of judgment, and at last they are reminded that in two other cases of mutiny, which are specified, *the*

*prisoners were capitally convicted, and that some of them suffered accordingly.\**

Will it be forgotten that this letter was not read in open court, and that the prisoner was afforded no opportunity of disproving its allegations or controverting its arguments? This would not have been in the genuine style of the Madras jurists. Its operation was to have been secret, but sure. What could be more adverse to humanity, as well as law, than this daring attempt to turn back the stream of mercy? Was such an attempt ever heard of amongst men trained even to the wildest and most imperfect notions of jurisprudence? The Governor General, and the Commander-in-Chief, calling to the aid of their own powerful influence, the hired sophistries of an advocate, to prevail on a Court-Martial to convert a lenient and merciful sentence into a sentence of death! The Court, however, with a virtuous firmness adhered to their sentence,

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\* See Trial of Lieutenant-Colonel Bell, published by the Madras Government, p. 127.

and the blood of this excellent and venerable man was not shed.\*

A similar experiment was made with like success in the cases of Major Storey, and of Lieutenant-Colonel Doveton; the last of whom had been honourably acquitted. The Court, in the latter instance, are treated with a still longer lecture under the same signature. Like the former, it contains much observation, urged with all the zeal of an advocate; but controverting the defence, weakening its statements, and perplexing its reasonings with a subtlety, which shewed that the servile pen of Lieutenant-Colonel Leith, though employed to blacken the character of Colonel Bell, was now exchanged for that of an able artificer. They who are conversant with the manner of the Governor-

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\* It would be paying an unmerited compliment to this wretched letter, to honour it with a formal refutation. Had the writer of it imbued either the spirit of law or natural justice, or been aware of the consequences in which he might have been involved, had that dreadful event happened, he would have hesitated before he ventured on an illegal and extra-judicial interference with a court, where he had no claim of audience.

General, will here trace its characteristics in its length, verboseness, and labour. The court, however, still adhered to their sentence. A general order was afterwards issued by the Commander-in-Chief, evidently by the same noble author, in which by a stroke of arbitrary discretion, acting by no law but its own caprice, a punishment of no ordinary severity is inflicted on this officer, *for the very crime, from which he had been honourably acquitted by a court chosen and appointed by his prosecutors.* In this order, the Commander-in-Chief recommends to Government, that Lieutenant-Colonel Doveton should be removed from the exercise of all military functions, till the pleasure of the Court of Directors should be taken. Conformably to this arrangement, a government order shortly afterwards announces the suspension of that officer from his military functions.\*

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\* The opinions of English lawyers on an extra-judicial punishment analogous to this, may be seen in the subjoined case. In 1790 Captain Coffin, of his Majesty's ship *Thiſbe*, who was dismissed from his command about three years before by the sentence of a Court Martial, and afterwards by the then *Board of Admiralty* struck off

The second class of delinquents remained to be tried. But the court which had refused to

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*the list*, presented in consequence of this procedure, a Memorial to his Majesty, which was referred to the Judges, on the question as to the *legality* of that measure.

*Copy of the opinion of the Judges.*

“ To the King’s most excellent Majesty.

“ May it please your Majesty,

“ In obedience to the order of your Majesty in council, we have taken into our consideration the charge exhibited against Isaac Coffin, Esq. the sentence of the Court Martial, and also the resolution of the late Board of Admiralty thereupon; and we are of opinion that the said sentence is not legal, and that the punishment directed to be inflicted by an act of the 22d of King George the Second, cap. 33, upon persons convicted of the offence specified in the 31st article of war, established by the said act, cannot be inflicted, or judgment, or judgments thereupon be pronounced, or supplied by any other authority than that of the Court Martial which tried the offender.

(Signed) **KENYON**, Chief Justice.

**LODGEBOROUGH**, Chief Justice.

**EYRE**, Baron.

**BULLER**.

**GOULD**.

**ASHURST**.

**HOTHAM**, Baron.

**WILSON**.

**GROSE**.

**THOMPSON**, Baron.”

In consequence of the foregoing opinion of the Judges

pass sentence of death on Colonel Bell and Major Storey, and had honourably acquitted Colonel Doveton, was dissolved, and another almost immediately appointed. Of this court, to the dismay and astonishment of the prisoners, Lieutenant-Colonel Wilkinson was announced as President; the officer against whom criminal charges had been preferred for his violent and intemperate conduct at Trichinopoly, but who had been absolved from trial by Lord Minto, on the specific ground, that his acts were comprehended in what was called the Amnesty. The infusion of Company's officers was also considerably diminished; and as by the articles of war, two-thirds of the court were required to concur in the sentence of death, it happened *by a singular coincidence*, that his Majesty's officers appointed to sit there, exactly amounted to that proportion.

If a court thus constituted, convened also

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Captain Coffin was reinstated (by order of his Majesty) in March 1790, with his original rank as Post Captain, and in the ~~same~~ month introduced to the King at the levee by Lord Hood.

under the influence of the recent rebukes, which the former Court Martial had sustained from the Government and the Commander-in-Chief for sentences not consonant to their wishes, with the vain and inoperative acquittal of Colonel Doveton too, before their eyes, it was natural for them to entertain considerable apprehension. Deeming therefore that an acquittal would be nugatory, because it would be superseded by the extra-judicial rule which had deprived Colonel Doveton of the benefit of his full and honourable deliverance, they applied for permission to embrace the alternative they had waived when the chances of an impartial trial were opened to them; and were voluntarily dismissed from the service.\*

I have now brought these transactions to their close. They will have established, I trust, clear and distinct grounds of inculpation against Sir George Barlow in these material points, which

\* The greater part have been restored, and permitted to return to India, by the Court of Directors.

at no distant period, will become the subject of grave inquiry, and, perhaps, finally of criminal animadversion.

It will appear that a stern unyielding spirit of authority has presided over his counsels from his first contemptuous refusal to transmit the respectful representations of the army to the Court of Directors in strict conformity to the usage of the service, down to the final consummation of that perverse system, the expedient of the 26th of July, which drove a gallant and heroic army into despair and crime; that this interval was filled up with every thing of odious in power, insulting in authority, and foolish in policy; that military laws were subverted, and military duty perplexed by the punishments of officers, for having obeyed the orders of their superiors; those punishments inflicted without the slightest forms of enquiry, and none of the solemnities of trial; that before the army had recovered from their first surprize and alarm at these monstrous proceedings, a considerable number of their ~~most~~ revered officers\* were proclaim-

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\* They have all been since restored by the Court of Directors.

ed to be traitors as in the tables of a public proscription, and sent from India as vagrants, without any trial, and possibly without any accusation; that while writhing with the torture, though still patient under the oppression, they were treacherously surprized and separated with every circumstance of disgrace and indignity from the native corps which they commanded; and that this fatal expedient *first* drove them into those excesses which every good man must equally deplore and censure.

But the most minute inquisition into this mass of discord and tumult will not discover any wanderings from the paramount allegiance they owed their country. It was the cold unfeeling temper of Sir George Barlow; his personal enmities; his inflexible and adamantine obstinacy; his contempt of military law; his violation of military usage, that arrayed against him every feeling that glows in the heart of man. And it will mitigate the sternest judgment, which can be passed upon them for their temporary departure from duty and discipline, that in their most perturbed moments, they abstained from seducing the

native soldiers into the participation of their wrongs and resentments.\*

But if these are not sufficient illustrations of the temper and policy of Sir George Barlow, they are amply supplied by the transactions already detailed, amounting to a daring and oppressive interference with a court of law. In this part of his administration he stands forward the avowed patron of convicted criminals; perverting his authority to the punishment and ruin of men, who had been guilty, as he himself specifically admits, of no other offence, than the prosecution of those criminals in the King's court of justice.

But disowned at length even by his loudest partizans, happily he exhibits a salutary commentary on his own acts. Even in his hour of

\* An intelligent writer in India, expresses himself thus : " Not a seapoy from Cuttack to Comorin who would not have adhered to his officer." It was owing to the uncoerable fidelity of the European to his country, that the whole native force did not march against the Governor. The officers submitted to punishment, degradation, and separation from their men, rather than risk the consequences of such a contest.

triumph, he was little to be envied. What man can consider the forced smile of adulation, the unwilling homage of official respect, the venal obeisance of those who flatter his vanity, and feed his passions, an equivalent for that unbought and unpolluted submission, which the heart pays to authority mildly and mercifully exercised? What can it avail him, that for three years, he has been retained in office; and the question whether he had prostituted his power to his passions, has been carried in his favour either by the drawing of a lot,\* or the comfortless majority of two in twenty-four? To bring the feelings that are lovely and decorous in private station into the conduct of government; so to be a Governor, as not to forget that he was a gentleman; beyond this he has found that all his authority has been weakness and imposture, instead of wisdom and energy. Authority cannot be strong, if it is not respected. It will not be re-

\* This is literally true with regard to some of the most momentous decisions of the Court of Directors upon these transactions.

spected merely because it is strong. Stripped of the esteem and the attachments and the cordialities of life, it is weak as well as detestable; and the creatures who are content to exercise it on such conditions,\* “ poor shrunken things, “ full of melancholy and indisposition, and un-“ pleasing to themselves.”

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\* Lord Bacon.

## APPENDIX.

IN confirmation of what has been said concerning the proceedings had on Reddy Row's forged bond for £19,868. 2s. 2*½*d. I am happy to have it in my power to subjoin the adjudication of the Carnatic Commissioners, which is extracted from their 8th Report just printed. Of this bond, Mr. Anstruther, *lately appointed Recorder of Bombay*, had a considerable share, as Mr. Tulloh proved at the trial of Batley. It was this Mr. Anstruther, who being largely interested in this and other claims of Reddy Row, advised Sir George Barlow to defend and support Reddy Row, and his associates. It was upon this advice that the prosecutors of Reddy Row were punished, and the magistrate, who committed him, deprived of his situation. From the abstract of claims, p. 319, of the same Report, it appears that this Reddy Row had preferred further claims of the same description, to the amount of £75,000. and upwards, which were disallowed on the ground of "their being founded on forgeries." This Reddy Row was recommended by the Chief Justice of Madras, Mr. Anstruther's brother-in-law, after a conviction of two forgeries, and conspiracies by two juries, one of them a spe-

cial jury, to his Majesty for pardon. That pardon was granted in pursuance of that recommendation. Reddy Row having been detected in other forgeries, had destroyed himself before the pardon arrived.

Claim, No. ~~2~~, of No. 104, in our first Report.

AWARD.

Absolute  
Adjudications  
against  
Claimants.  
No. 259.

To all to whom these presents shall come, We Sir Benjamin Hobhouse, Baronet, and Thomas Cockbourne, Esq. being two, &c. Whereas the late Roya Reddy Row, Assignee of Gopaul Row, did execute the aforesaid deed of Indenture, &c. and having thereby submitted himself, his heirs, &c. in all things relating to his claims made under the said Indenture. Now know ye, that we the said Benjamin Hobhouse, and Thomas Cockbourne, having taken into consideration a claim made by the said Roya Reddy Row, upon a bond said to be from the Nabob Omdut ul Omrah, to the said Gopaul Row, bearing date, &c. for the sum of 38,500 Pagodas, which with the arrear of interest, is stated to amount on the 15th of May, 1804, to the aggregate sum of 49,670, 11 fanams, and 40 cash, or £19,868. 2s. 2 $\frac{1}{2}$ d. and having duly investigated, &c. &c. do find, THAT THE SAID BOND IS NOT THE BOND OF THE SAID OMDUT UL OMRAH, BUT A FORGERY. And we do hereby award and judge that the said Roya Reddy Row, &c. has no claim against the said Omdut ul Omrah, &c. on the fund, &c. &c.

(Signed)

BENJAMIN HOBHOUSE.

THOMAS COCKBOURNE.

Mr. Anstruther pretended that after this bond was impeached, he disposed of it to Messrs. Binny and Dennison, and that they disposed of this impeached bond to one of their constituents. But the whole is a gross falsehood. Who would have bought an impeached bond? What agent would have recommended to a constituent a bond impeached as a forgery? Who was the constituent? What was the consideration paid for it? Messrs. Binny and Dennison were the bail for Reddy Row, Anandah Row, and Batley.

"This matter will undergo a serious investigation before Parliament.

FINIS.

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